

MEETING
STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOURCES BUILDING
1416 9th STREET
AUDITORIUM
SACRAMENTO, CA

FRIDAY, JULY 18, 2008
8:31 A.M.

LINDA KAY RIGEL, CSR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Francis "Butch" Hodgkins, Vice President

Ms. Maureen "Lady Bug" Doherty, Secretary

Mr. John W. Brown, Member

Ms. Emma Suarez, Member

STAFF

Mr. Jay Punia, Executive Officer

Mr. Gary Hester, Chief Engineer

Mr. Dan Fua, Supervising Engineer

Ms. Virginia Cahill, Legal Counsel

Ms. Lorraine Pendlebury, Staff Analyst

Mr. Geoff Shumway, Staff Analyst

Mr. Jon Yego, Chief, Floodway Protection Section

Mr. Steve Dawson, Floodway Protection Section

ALSO PRESENT

Mr. George Qualley, Chief, Division of Flood
Management

Mr. Ricardo Pineda, Department of Water Resources,
Chief Floodplain Management Branch

Mr. Bob Raymer, California Building Industry
Association

APPEARANCES continued

Mr. Paul Brunner, Three Rivers Levee Improvement
Authority, Executive Director

Mr. Jim Sander, U.S. Army Corps of Engineers

Mr. Jeff Van Gilder, Department of Water Resources

Ms. Deborah Condon, Department of Water Resources

Mr. Pal Sandhu, Department of Water Resources

Ms. Terri Wegener, Department of Water Resources

Mr. Rod Mayer, Assistant Deputy Director for
FloodSAFE

Mr. Scott Shapiro

Mr. Ward Tabor, Department of Water Resources

Mr. Steve Winkler, San Joaquin County and San Joaquin
County Flood Control and Water Conservation Board

Mr. Merritt Rice, Department of Water Resources

Mr. Roger Lee, Department of Water Resources

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1 P R O C E E D I N G S

2 --o0o--

3 PRESIDENT CARTER: Good morning, ladies and
4 gentlemen. Welcome to the Central Valley Flood
5 Protection Board meeting for July 18th.

6 Mr. Punia, would you please call the roll.

7 EXECUTIVE OFFICER PUNIA: Jay Punia, Executive
8 Officer of the Central Valley Flood Protection Board.

9 Board Member Butch Hodgkins?

10 VICE-PRESIDENT HODGKINS: Here.

11 EXECUTIVE OFFICER PUNIA: Board Member John
12 Brown?

13 BOARD MEMBER BROWN: Here.

14 EXECUTIVE OFFICER PUNIA: Board Member Lady
15 Bug?

16 SECRETARY DOHERTY: Here.

17 EXECUTIVE OFFICER PUNIA: Board President Ben
18 Carter?

19 PRESIDENT CARTER: Present.

20 EXECUTIVE OFFICER PUNIA: The rest of the
21 Board Members are absent.

22 PRESIDENT CARTER: Thank you very much.

23 Seeing that we do have a quorum, we'll go
24 ahead and continue to conduct business. Item 2,
25 Approval of the Minutes for the May 16th monthly Board

1 meeting and May 30th, 2008 subcommittee meeting.

2 EXECUTIVE OFFICER PUNIA: Subcommittee minutes
3 are not in the package, and we will be bringing next
4 month. But the May 16th should be in your packet.

5 SECRETARY DOHERTY: I was absent on the 16th,
6 and that's not listed.

7 BOARD MEMBER BROWN: Mr. Chairman, I have one
8 correction to make on the minutes of the 16th, on page
9 10, Item 17, the third line down. It should be George
10 Basey with a B, instead of Casey.

11 PRESIDENT CARTER: Thank you.

12 BOARD MEMBER BROWN: With that change, if
13 there's no others, I move the adoption of those
14 minutes.

15 PRESIDENT CARTER: So we have a motion to
16 approve the minutes with two changes, one, the note
17 that member Lady Bug Doherty was absent at that meeting
18 and then Mr. Brown's change to Item 17 on page 10, to
19 correct the spelling of Mr. Basey's last name.

20 SECRETARY DOHERTY: I'll second that motion.

21 PRESIDENT CARTER: Okay. Any further
22 discussion? All those in favor indicate by saying aye.

23 (Ayes)

24 PRESIDENT CARTER: Opposed? Motion carries
25 unanimously. Thank you.

1 Moving on to Approval of the Agenda for today.

2 Are there any suggestions? Mr. Punia, you have some
3 suggestions?

4 EXECUTIVE OFFICER PUNIA: Yes, please. This
5 is Jay Punia.

6 Item 7, Consent Calendar, staff is
7 recommending that Item 7E and 7H be removed from the
8 agenda. We tried, but we don't have all the
9 information for these items for the Board's
10 consideration today.

11 SECRETARY DOHERTY: 7E.

12 EXECUTIVE OFFICER PUNIA: 7E, Permit No.
13 18347. And 7H, that is Permit No. 18354. Those be --
14 staff is recommending they be pulled from the Consent
15 Calendar from the agenda at this time.

16 PRESIDENT CARTER: So they'll be postponed for
17 future discussion.

18 EXECUTIVE OFFICER PUNIA: That's correct.

19 SECRETARY DOHERTY: I have a question, also on
20 Item 8?

21 EXECUTIVE OFFICER PUNIA: 8, the staff has
22 requesting that Item 8, under hearing and decision, be
23 pulled from the agenda also.

24 SECRETARY DOHERTY: All right.

25 EXECUTIVE OFFICER PUNIA: Applicant has

1 requested to resubmit separate application for this.

2 And Item 9, Natomas Levees Improvement

3 Project, Sacramento Area Flood Control Agency.

4 Applicant has requested that we should pull it, and

5 they're requesting to bring it back next month.

6 PRESIDENT CARTER: Anything else?

7 EXECUTIVE OFFICER PUNIA: And Board Member

8 Teri Rie, is not here. She has proposed that we should

9 change Item 12, section 408, Memorandum of

10 Understanding from an action item to informational

11 item.

12 DEPUTY ATTORNEY GENERAL CAHILL: You know, the

13 Board might want to consider leaving it on as an action

14 item. That wouldn't mean that you would have to take

15 action.

16 That way you would still have the flexibility

17 to do so if you wanted to.

18 VICE-PRESIDENT HODGKINS: I'd like to proceed

19 that way, and then we can talk about it when we get to

20 the item.

21 PRESIDENT CARTER: Okay. There is no downside

22 to that, so. Anything else?

23 EXECUTIVE OFFICER PUNIA: One more minor

24 correction on the agenda. Item 7G, Mokelumne River --

25 I think there is mistake. It's not in Sutter County;

1 it's in San Joaquin County.

2 BOARD MEMBER BROWN: 7G?

3 VICE-PRESIDENT HODGKINS: 7G.

4 BOARD MEMBER BROWN: That's the Kaweah River.

5 EXECUTIVE OFFICER PUNIA: On the Consent
6 Calendar, Item 7G, Permit No. 18352. Consider approval
7 of Permit 18352 to place rock riprap on the left south
8 bank of the Mokelumne River. I think by mistake it got
9 listed as a Sutter County. It's in San Joaquin County.

10 BOARD MEMBER BROWN: My 7G, Mr. Chairman, is
11 different.

12 SECRETARY DOHERTY: It says Sutter County.
13 It's the draft.

14 BOARD MEMBER BROWN: I just got it. They just
15 handed it out.

16 SECRETARY DOHERTY: In your book. Oh, the one
17 that came in the mail.

18 EXECUTIVE OFFICER PUNIA: The agenda should
19 say revised.

20 PRESIDENT CARTER: It's revised agenda for
21 today's date.

22 BOARD MEMBER BROWN: Okay. All right. All
23 right.

24 PRESIDENT CARTER: So 7G, is Mokelumne River
25 in San Joaquin County.

1 EXECUTIVE OFFICER PUNIA: That's correct.

2 PRESIDENT CARTER: Any other changes,
3 adjustments?

4 EXECUTIVE OFFICER PUNIA: That's it.

5 BOARD MEMBER BROWN: Thank you.

6 PRESIDENT CARTER: Very good. So we'll
7 entertain a motion to approve the agenda with the
8 following changes: To remove Items 7E and H, and Item
9 8 and 9 from the today's agenda for future
10 consideration.

11 And with the editorial change of 7G reading
12 San Joaquin County in lieu of Sutter County.

13 SECRETARY DOHERTY: I'll make a motion we
14 approve the agenda with those changes.

15 PRESIDENT CARTER: We have a motion. Do we
16 have a second?

17 BOARD MEMBER BROWN: Second.

18 PRESIDENT CARTER: Motion and second. Any
19 further discussion? All those favor indicate by saying
20 aye.

21 (Ayes)

22 PRESIDENT CARTER: And opposed? Motion
23 carries unanimously. Thank you.

24 Okay. At this time we have Item 4, which is
25 Public Comment. This is time when the Board invites

1 members of the public to come and address the Board on
2 unagendized items. And we do ask that if you do want
3 to address the Board, please fill out one of the
4 three-by-five cards. There are some on the stack on
5 the table in the back, at the entrance to the
6 auditorium; and also Ms. Pendlebury, here in the front,
7 has some. And that is just so that we know to
8 recognize you.

9 If you want to speak on items that are on the
10 agenda, please note which item you'd like to address,
11 and we will -- when that item comes before the Board,
12 we'll call on you to address the Board.

13 We do ask people try and limit their comments
14 to five minutes, if possible, and at this time I do not
15 have any cards before me. Is there any member of the
16 public that does wish to address the Board at this time
17 on unagendized items for today?

18 Seeing none, we will move on then. Thank you.

19 All right. Report of the activities of the
20 Department of Water Resources. Good morning,
21 Mr. Qualley, welcome.

22 MR. QUALLEY: Good morning, President Carter,
23 members of the Board. We'll start with water
24 conditions again, but, of course, they haven't changed
25 much since the last report.

1 Actually, the total as of July 1st were at
2 85 percent of average to date, with 60 percent of
3 average to date on runoff and 75 percent of average to
4 date for reservoir storage.

5 Spring has been unbelievably dry. Actually,
6 it is the driest on record since 1921, for the
7 8-station index. For the period of March through June,
8 we only got 3.4 inches on the 8-station index. So it's
9 dry, dry, dry, and both Sacramento and San Joaquin
10 indexes are forecasted to be critical.

11 Got an item here on Statewide Flood Planning
12 Office. They have been doing a number of workshops up
13 and down the state. We mentioned four of them here
14 that were held in the Central Valley. There were
15 actually a total of -- I'm not sure if there were seven
16 or eight. There was some in Southern California and on
17 the south coast. So they provided a roll-out of the
18 FloodSAFE Strategic Plan and responded to whatever
19 questions the folks in the audience might have.

20 They have also a number of coordination
21 meetings with the Corps of Engineers. Of course, we
22 feel it is very important for the Corps, as they are
23 always partners with us on flood control activities.
24 It's especially important for them to be partners as we
25 progress on the Central Valley Flood Protection Plan,

1 and we are progressing in that direction. We've had
2 good discussions with them, and they are very much
3 anxious to be a part of that process.

4 Flood Project Integrity Inspection Branch. Of
5 course we had released the spring inspection reports
6 previously. They are available on the website. We had
7 intended to activate our new website early in July. We
8 have held off on that because our public affairs
9 office, they're kind of -- have oversight over all the
10 DWR websites, and they just wanted to do a little bit
11 more review to make sure that the way things we -- the
12 way we had things set up were consistent with other DWR
13 websites.

14 So we're probably going to be going live with
15 the new website on August 1st; but in the meantime, our
16 existing website is still active, and we have posted
17 the inspection report on the existing website, so still
18 is -- it's available through the web.

19 The inspection group, they'll be continuing
20 with their inspections of flood control structures and
21 project channels this month. Then they'll be doing
22 erosion surveys late this month or early next month.

23 On the Early Implementation Program, things
24 are proceeding on all the projects. TRLIA is fully
25 under way, as I'm sure Paul Brunner will provide more

1 detail, but we have processed almost \$40 million of
2 invoices, so they can proceed with the real estate and
3 the construction activities.

4 For LD1 of Sutter County, they won't actually
5 be doing their construction work until next
6 construction season, but they're starting the real
7 estate acquisition and just getting everything in
8 place, so they will be ready to go.

9 For the Wheatland Project, the funding
10 agreement was executed, and they had a bid opening
11 early this month and expect to issue a Notice to
12 Proceed later this month.

13 And the SAFCA project, again, they opened
14 their bids in June, and they'll be moving forward with
15 that work later this month.

16 So it's good to see all those projects where
17 we've got all the agreements executed and everything
18 moving forward on them.

19 The grant program we have for local levees,
20 for urgent repairs and evaluation, we did receive 21
21 applications. And I think I reported this -- this was
22 early breaking news last month -- that we had gotten
23 applications for about half of the \$40 million
24 available for the urgent repair program and about
25 20 percent of the \$20 million available for the

1 evaluation program. Which caused to us wonder a little
2 bit, are there others out there that, for whatever
3 reason, just didn't the get the word?

4 So, at the same time, we're evaluating these
5 applications, you know, we're considering is there
6 something that we somehow missed in the outreach
7 process or where we may want to consider going out for
8 another round of applications just to make sure we've
9 captured all of the entities that might be interested
10 in these programs.

11 For the Statewide Grants Branch, you'll be
12 getting a presentation on that later in the meeting,
13 but on the 1147 Draft Regulations, the comment period
14 expires on that at the end of this month. And so I'll
15 just leave it at that, and you'll be having a
16 presentation on that.

17 On Flood Protection Corridor Grants, we had
18 gotten applications to, really, for more than the \$24
19 million. So we went through a process and selected
20 appropriate applicants for the \$24 million.

21 We had a public meeting last month on the
22 proposed acquisition of Knagg's Ranch, which is in the
23 Elkhorn area. And actually, we are expecting escrow to
24 close on that, I believe, by the end of the next week.

25 So we're buying acreage there, SAFCA is buying

1 some acreage. The total is 1700 acres that are being
2 acquired that will remove that from development
3 possibilities. And we'll also have a portion of that
4 that we can use for developing mitigation lands. About
5 300 acres of what we are purchasing, we'll be able to
6 use for mitigation.

7 Maintenance Support, the Wadsworth Canal
8 slurry wall, they completed the nearly mile-long slurry
9 wall. And this is the last remaining repair from the
10 1997 cost-shared, PL-8499 levee rehab program. So
11 sometimes it takes a long time to get through all the
12 projects that are approved, but we're certainly glad
13 that this one was able to be completed.

14 Sutter Bypass Veg Reduction, our Sutter yard
15 has been active out there in spraying activities,
16 clearing activities, some discing, working with hand
17 crews, really all the methods available to us to be
18 able to provide additional capacity out in the bypass.
19 They're even -- they are working on 28 acres at the far
20 north end of the wildlife refuge, known as the old
21 growth area.

22 SECRETARY DOHERTY: Mr. Qualley?

23 MR. QUALLEY: Yes.

24 SECRETARY DOHERTY: I was in that area Monday
25 morning, the old growth area. And I didn't see any

1 work being done in the old growth area. Now, maybe I
2 looked at the wrong -- is it directly below where the
3 break was?

4 MR. QUALLEY: I haven't been out there
5 personally to see the exact location, and as it
6 indicates, they have just begun. So perhaps there
7 hasn't been enough progress made to have it be
8 apparent. I don't know if Keith or someone from
9 maintenance is in the audience.

10 SECRETARY DOHERTY: That's all right. I can
11 go back again tomorrow or Sunday and look. I heard
12 sounds, but I thought it was coming from the slurry
13 wall area. The thumping of the machines. So maybe it
14 was clearing somewhere.

15 MR. QUALLEY: All right.

16 SECRETARY DOHERTY: But I'll go back and
17 check.

18 MR. QUALLEY: Flood Operations Branch. We
19 have a number of items there because they're busy
20 getting ready for the next flood season, as they always
21 do this time of year, getting the directory of flood
22 control officials updated, the emergency cards that's
23 got every possible number you could ever want to know
24 for flood operations, and we're all anxiously awaiting
25 to see what color they pick this year for the cards.

1 The Flood Operation Center. We also have
2 face-to-face meetings with the local OES offices and
3 those are being scheduled. And also working with the
4 Corps to have preseason flood meetings, both in the
5 Central Valley and in the southern California area.

6 We try to cover the whole gamut of meeting
7 with all of the entities that we would be coordinating
8 with during the flood season.

9 I've completed a draft copy of bulletin 6997,
10 that is the series of bulletins that, you know, go into
11 a great depth about particular flood seasons and that's
12 complete.

13 We've got a draft of the AB 156 fact sheet,
14 and there's several things that are required under AB
15 156, and this item highlights the one where the local
16 agencies are required to adopt a safety plan within two
17 years. So our staff will be working with the local
18 entities to help develop those plans.

19 Also our Flood Operation Center has a
20 consultant developing emergency response plans for
21 three types of general areas where if there is an
22 alluvial fan flooding, which typically is in the
23 southern California areas, local flooding or creek
24 flooding, and deep flood plains. And we'll be picking
25 project areas for these studies about a month from now,

1 in August.

2 We have been coordinating with RD 2039 on the
3 Jones Track 2004 closure site. There was some
4 additional seepage noted through the closure site, and
5 we had a number of conversations. And we sent a letter
6 to RD 2039 on July 14th offering some technical
7 recommendations and indicating to them that the
8 expectation is that they are in the lead to follow up
9 on whatever activities are necessary.

10 We mentioned some possible funding sources
11 through the Department, our Delta Levees Subventions
12 Program, possibly special projects. So we are awaiting
13 their response, their reaction to our recommendations,
14 and to see what their plan is to move forward.

15 Of course, with all the fires, we were
16 requested to provide assistance on some of the teams.
17 And so we've canvassed the Department for all the other
18 divisions to get folks that are willing to help on
19 that. And we figure even though the recent fires seem
20 to be under control right now, we really aren't even in
21 the official normal fire season yet.

22 It is an extremely early fire season, so we
23 expect there will be additional requests for the
24 department to participate.

25 We did dispatch -- and this is not in your

1 written speech -- but we did dispatch our flood fight
2 specialist to Inyo County to help give them advice.
3 They had some mud slides due to, you know, flash flood,
4 thunderstorm-type activities there.

5 So that's typical for us to get those type of
6 requests to help in advising them how to deal with the
7 situation.

8 Doing a lot of modernization in our -- in the
9 Decision Support Group. You know, we've mentioned the
10 new web portal before, and as I indicated, that will be
11 active at the beginning of August. And this gives the
12 new website address for that when it becomes active.

13 Doing considerable modernization also in the
14 Flood Center, upgrading our software and our hardware
15 capabilities. There is a tremendous amount of
16 information flow through the Flood Center, so we're
17 always having to add new servers and just upgrade the
18 technology so that we can keep track of all the data
19 and maintain all the links and the exchange of
20 information we have with many organizations, and that
21 takes a pretty complex and robust IT system. So we're
22 always tinkering with it, but we've got a terrific
23 staff that does a good job of keeping us ahead of the
24 game.

25 On Delta Emergency Operations activities,

1 there have been transfer facilities established at Rio
2 Vista and the Port of Stockton. Pretty sizable
3 stockpile of rock in each location, over 100,000 tons.
4 It's probably easily visible from any astronauts that
5 would be going around the earth.

6 There's a pretty complex conveyer system that
7 has been constructed and delivered. We went through a
8 testing process for that and brought some of our staff
9 from field divisions and maintenance yards to have the
10 contractor go through the paces on it so that they're
11 up to speed how to operate that.

12 That would be in the case of a catastrophic
13 seismic event in the Delta or perhaps yet a
14 multi-island failure. We've got -- and this is kind of
15 the beginning of our prestaging, prestaging the
16 materials for that. But it would allow us to transfer
17 massive quantities of rock to get them to where they
18 need to be to help close those breaches quickly, and we
19 wouldn't have the extra problem of trying to figure out
20 how to get the material into the Delta from that kind
21 of situation. And we'll be having a table top exercise
22 later this year.

23 Delta Levee Subventions Program, there are --
24 they will be coming to the Board in September with
25 their specific recommendations. They have gotten a

1 number of applications from the reclamation districts,
2 indicate 68 applications, for a total of about
3 \$88 million, so certainly a lot of interest in the
4 Proposition 84 funds that are available to enhance that
5 program. And I won't go into detail about the other
6 things mentioned on that part of the report.

7 Floodplain Management Branch. Ricardo Pineda
8 will be giving you an update on the California Building
9 Standards Commission, some of the recommendations, some
10 of the progress we're making on that. That's one of
11 the things that is our responsibility to do under SB 5,
12 to propose updated requirements to the building
13 standards code to reduce residual flood risk.

14 And also, as you heard last month, the Best
15 Available flood maps, we did mail those out to 32
16 counties and 91 cities on July 1st as required by SB 5.

17 We had originally intended to go live publicly
18 with those maps on the web at the same time. Some of
19 the districts expressed a desire to let them have a
20 look at it first so they can be familiar with it
21 because obviously they'd be getting inquiries from the
22 media and others, and they wanted to have an
23 opportunity to at least do a quick check to see if
24 there was any technical errors that they might detect.
25 So we thought that was reasonable and gave them

1 additional time to do that.

2 And our expectation is to go live with the
3 press release and make it live on the website around
4 August 1st. I won't say exactly August 1st, but within
5 a few days one way or the other.

6 And Levee Evaluations Branch, they're in the
7 process of expanding to additional areas within the
8 Sacramento and San Joaquin flood control projects.
9 They've -- it's been an ongoing program for the last
10 year and a half, and we've been providing regular
11 updates on where they've been doing the work, and I --
12 they give pretty good detail on the work they've been
13 doing.

14 So in the interest of time, I don't plan to
15 make detailed comments on either the levee evaluations
16 or the levee repairs, but I'd be happy to answer any
17 questions on this or any other portion of the report.

18 PRESIDENT CARTER: Thank you, Mr. Qualley.
19 Any questions for Mr. Qualley at this time? Thank you,
20 very much. I guess, Mr. Pineda will come up and give
21 his briefing.

22 And let the record reflect that Board Member
23 Emma Suarez joined us about 8:48. Good morning.

24 BOARD MEMBER SUAREZ: Good morning.

25 MR. PINEDA: I think I'm ready.

1 PRESIDENT CARTER: Good morning, Mr. Pineda.

2 MR. PINEDA: Good morning, President Carter
3 Executive Director, Punia, and members of the Board.

4 For the record, my name is Rick Pineda, I am
5 Chief of the Floodplain Management Branch. It is
6 always a privilege to come to the Board and address you
7 on important items related to the Department's mission
8 and the Board's mission.

9 I'm going to be talking to you today about
10 another requirement out of Senate Bill 5 that was
11 authored by Senator Muchato, and it has to do with
12 building standards in the Central Valley.

13 As you are aware, since the Board was founded
14 and since DWR was formed, we are all working together
15 to reduce flood risk, both from the structural
16 perspective and the nonstructural perspective. The
17 bonds and the bills have given us new funds and
18 direction to carry out or essentially to develop tools
19 and to use those tools throughout the Central Valley
20 and throughout California.

21 So Division Chief Qualley talked about the EIP
22 Grants. Those are our structural projects and planning
23 studies with the Corps that may lead to -- that we hope
24 will lead to future projects. We talked about -- we
25 want to do as best we can with operations and

1 maintenance and emergency response plans including
2 stockpiling of the materials.

3 Last month, I talked to the Board about better
4 access by the public and by community officials of
5 flood hazard maps. We call that our Best Available
6 Maps Project, and that's coming online.

7 We have additional floodplain mapping
8 activities that we're going to be doing. So building
9 standards falls into another one of those tools that we
10 are developing, and it is a logical one. Do we have
11 the best set of building standards for areas at risk of
12 flooding? And Senate Bill 5 kind of helped define
13 where we are going to go with that issue.

14 Out of this presentation, what I'd like to
15 make sure that the Board walks away with is an
16 understanding of -- provide information to you about
17 the code adoption process by the State of California
18 Building Standards Commission.

19 That's somewhat of a complex and lengthy
20 process, and we've been learning this process as we
21 have been launching this project a couple months ago.

22 I want to provide you and make sure you're
23 comfortable with our progress so far, how we've planned
24 out to meet the requirements of Senate Bill 5. And we
25 would like to -- our building codes team, we call it

1 our BCT, would like to solicit your input and your
2 staff's input. And we have already talked to the
3 Central Valley Board staff about this project, and we
4 welcome that input.

5 I think it's worthwhile going over the
6 language of the legislation. We have to constantly
7 read it to make sure we're on track with it, so let me
8 just go ahead and do that for a minute.

9 So the Senate Bill 5 revises or adds a section
10 50465 to the -- I think it's to the Health and Safety
11 Code. Let me check make sure of that. Okay.

12 So Section 50465 is added to the Health and
13 Safety Code. 50465(a):

14 On or about January 1st, 2009 the
15 Department of Water Resources shall
16 propose for adoption and approval by the
17 California Building Standards Commission
18 updated requirements to the California
19 Building Standards Code for construction
20 in areas protected by facilities of the
21 Central Valley Flood Protection Plan
22 where flood levels are anticipated to
23 exceed three feet for the 200-year flood
24 event. The amendments to the California
25 Building Standards Code shall be

1 sufficient to reduce the risk of flood
2 damage and protect life, safety, and the
3 construction in these areas.

4 Section (b):

5 Before the Department proposes the
6 amendments to the California Building
7 Standards Code required pursuant to
8 subdivision (a), the Department shall
9 consult with the Central valley Flood
10 Protection Board, the Division of State
11 Architect, and the Office of the State
12 Fire Marshall.

13 So, one of the reasons I am here is -- even if
14 it didn't mention the Central Valley Board, I would
15 still be here talking to you about this process, but
16 specifically the Central Valley Board is called out.
17 There is a lot to absorb there. Probably you have a
18 lot of questions, and I'll try to answer them in my
19 presentation, and I welcome your questions throughout
20 the presentation and at the end.

21 Essentially, the process that we are going
22 through to modify the State's building code is that we
23 need to reach out to stakeholders. And isn't just the
24 Central Valley Board and the Division of State
25 Architect; we have a whole long list.

1 But essentially, we are going to be conducting
2 a number of stakeholder workshops to solicit the input
3 on our proposals. We are going to prepare a code
4 change package. We're going to submit that
5 recommendation, the recommended improvements to the
6 Building Code, by January 1st, 2009 which is the Senate
7 Bill 5 deadline.

8 After January 1st, 2009, we're going to
9 continue to refine that package because in reality, the
10 Building Standards Commission cycle starts in July
11 of 2009, so it gives us an additional six months. But
12 we want to meet the legislative deadline, and then we
13 will continue to refine the package so that when the
14 actual submittal is due according to the Building
15 Standards Commission requirements, we have got the best
16 package possible.

17 So we're going to participate in the next
18 round of changes to the Building Code adoption cycle.
19 In 2008, they completed the adoption of the
20 International Building Code. That was a very long
21 process. And they are currently working on the green
22 building standards right now. So every couple of
23 years, about every two years, they take on kind of a
24 new element, so we'll be kind of in this next round of
25 changes.

1 So the Building Standards Commission requires
2 a hearing by a code advisory committee that has various
3 members, and that takes about two months. There is a
4 45-day comment period and hearing by the Building
5 Standards Commission. So it's approximately -- in the
6 ideal sense, it's approximately an 18-month process.

7 And there is a gentleman here, Bob Raymer from
8 the California Building Industry Association, who is
9 much more knowledgeable about how codes come into play
10 and how the various parties interact. And I think
11 Mr. Raymer submitted a comment card, and he will be
12 making some comments after my presentation.

13 This is the schedule that we have laid out.
14 Essentially up to now, we've developed a team, we've
15 brought in some consultants that we have onboard, and
16 we brought in an expert from Virginia who is a building
17 codes expert, and we have brought on the Corps of
18 Engineers to help us.

19 We're -- we have brain-stormed some initial
20 recommendations for consideration by a technical
21 advisory committee that we're going to be forming this
22 month. We are developing a white paper, draft white
23 paper, that will be the catalyst for stakeholders to
24 review, and that will be the catalyst for discussion in
25 workshops.

1 We're here today in the July component to
2 brief the Central Valley Board. We've met with the
3 Building Standards Commission Executive Director, Dave
4 Walls. We've met with their Coordinating Council.

5 So essentially, we're well into the process.
6 We've got an aggressive deadline to meet the January
7 submittal. We'll be meeting in August with the
8 technical advisory committee. We will be refining the
9 white paper. We will be working internally with DWR
10 executive staff throughout this process to make sure
11 our proposals are reasonable.

12 We'll be having other stakeholder meetings,
13 public workshops, probably in September, October.
14 Continue to refine to the point that we can submit the
15 package in January. So I think we're well on our way.

16 What are the agencies that we're going to be
17 partnering with? Of course, the Central Valley Flood
18 Protection Board, we're here today. We have already
19 had various -- a couple of meetings with the Division
20 of State Architect. They are within the Department of
21 General Services.

22 California Building Industries Association,
23 we've met with Bob Raymer and had a couple of
24 teleconferences with CBIA.

25 We have met with the Building Standards

1 Commission twice and with their Coordinating Council,
2 which includes participants from the Building Standards
3 Commission from HCD, which is Housing and Community
4 Development; Office of State Architect, Division of the
5 -- let's see -- Office of the State Fire Marshall and
6 the Division of the State Architect; Office of
7 Statewide Health Planning and Development -- they're
8 the ones who work on public hospitals -- State
9 Emergency Resources; Conservation and Development
10 Commission; and Health Services.

11 I made a presentation to the Housing and
12 Community Development Department about a week and a
13 half ago about our Best Available Flood Maps and about
14 this process, and they're very excited to work with us.

15 We're going to be forming a technical advisory
16 committee, as I mentioned earlier, that will include
17 members from the -- representation from the
18 Coordinating Council. The Coordinating Council only
19 meets once every two months. We briefed them once, and
20 we will be briefing them again.

21 So getting kind of into the type of things
22 that -- I mean the heart of the whole requirement is
23 for us to come up with these recommended improvements
24 to the Building Code. Some things that those -- and
25 I'll be mentioning kind of our top six at the end of

1 the presentation -- but some things that the code,
2 where there's constraints on the code, as part of the
3 building code, you can't get into land use or zoning.

4 Examples of that -- well, there's some other
5 elements -- is you can require a smoke detector, but
6 you can't require a fire extinguisher in a house. So
7 there's some nuances to -- there's some nuances to what
8 you can propose for a building standard, so that's a
9 constraint.

10 For example, we've talked, as a very important
11 component is -- are ways to escape or egress from
12 residential structure or commercial structure for
13 rescue. That was a big lesson that was learned in
14 Katrina. And we've already got some feedback from some
15 parties that certain escape hatches or doors could kind
16 of conflict with the potential green building
17 standards. We think we'll be able to overcome those.

18 The Building Code Standards have two
19 components to them. They have the mandatory
20 requirement and appendices which are voluntary. So for
21 the submittal in January, we may make recommendations
22 that are still very preliminary at this stage, some
23 recommendations that are mandatory, and some that are
24 in the appendices which would be voluntary.

25 And over time, we could continue to work

1 through the process to make the voluntary ones, as we
2 gain more information about them, move the voluntary
3 ones in the appendices to mandatory.

4 As I discussed, the development of a white
5 paper is going to be a catalyst for discussion with the
6 Building Standards Commission, the technical advisory
7 committee that we are going to form, and other
8 stakeholders.

9 Essentially this white paper is going to say
10 why are we doing this project? What are the
11 legislative requirements? How does it fit into the
12 other flood bills that are out there? What building
13 codes related to flood damage reduction and flood risk
14 reduction are out there already? What recommendations
15 do we have? Where will it apply? Those type of
16 things.

17 So we are working on that white paper as we
18 speak, and we hope to get a draft for internal review
19 done by close to the end of this month.

20 Like any project under FloodSAFE, we're
21 developing a Project Management Plan. We have a draft
22 of that plan. That Project Management Plan should
23 include, you know, essentially our plan budgets,
24 schedules, who is working on it, what is our time line.
25 That would fall into the schedule.

1 So we're developing that, and then we modify
2 the Project Management Plan as we go along, so we do
3 have a draft of that ready.

4 We've put together, I believe, an excellent
5 team. I'm the program manager. Maria Lorenzo Lee is
6 our specific project manager. And Brian White, who is
7 in the audience, he is with Flood Management. He is
8 our staff engineer. Steve Cowden of the Division of
9 Planning and Local Assistance is our project economist.

10 When you submit changes to the Building
11 Standards Commission, you have to do an economic
12 analysis to prove that there are not significant
13 adverse economic impacts to the standards that you are
14 proposing, so that will be part of the process.

15 We've brought on Rebecca Quinn. She is our
16 building code expert. She's in Virginia, and she's
17 worked on building code activities for FEMA and other
18 federal agencies nationwide.

19 Larry Butts, he is the chair of the Corps of
20 Engineers National Flood Proofing Committee. He is in
21 Omaha, Nebraska.

22 And we're engaging the Corps. Larry and his
23 National Flood Proofing Committee from the Corps of the
24 Interagency Agreement, and we have the firm of PBS&J
25 which are located here in Sacramento and offices in San

1 Diego and San Jose, Gary Yagade and Ann Reddington. So
2 I think we've got a great team.

3 Key messages that I want to leave with you
4 today is that we've got a draft project plan that meets
5 the legislative requirements. We believe we've got a
6 project team with excellent national expertise. We've
7 already begun coordination with the Central Valley
8 Board, through discussions with staff.

9 One thing, we are going to develop a roll-out
10 plan. One thing that we learned with the Best
11 Available Maps, the 100 and 200-year maps, is we have a
12 detailed way by which we are kind of announcing this to
13 the public. So we conducted various workshops for the
14 Best Available Map as we rolled them out, and we're
15 going to be developing a specific plan once we get this
16 information together and go public with it outside the
17 technical advisory committee.

18 We believe that these building standards for
19 development in 200-year flood plans where flood depths
20 are greater than three feet will be a national example.
21 And we've been invited to present our progress to a
22 national conference, a national flood proofing
23 conference that the Corps of Engineers and Association
24 of State Floodplain Management, ASFPM, are holding in
25 New Orleans in November. So we will probably have

1 somebody go out and present that. But there is a lot
2 of interest nationwide in what we are doing.

3 Essentially, the questions that you may have
4 about our standards, are we going to elevate? Are we
5 going to flood proof? And I will get into some of
6 those preliminary, very preliminary recommendations,
7 and where did these code -- where will these codes
8 apply?

9 If you go back to the slide on -- if you go
10 back to the slide on the language of the legislation,
11 it says it applies to the facilities of the Central
12 Valley Flood Protection Plan and that we have to submit
13 these code changes to the California Building Standards
14 Commission by January 2009.

15 But other parts of SB 5 says that the Central
16 Valley Board will adopt the Central Valley Flood
17 Protection Plan in 2012. So there is kind of a
18 three-year gap there.

19 I can guess -- and this is purely my
20 speculation as a branch chief -- that the Central
21 Valley Flood Plan is going to include the existing
22 facilities of the State Plan of Flood Control for the
23 Central Valley, the 1600 miles of levee and pumping
24 plants and other facilities. And then I am guessing
25 that it could also include some additional

1 recommendations related to the urban and urbanizing
2 areas in Senator Machado's 32 county Central Valley,
3 that is outside the sphere of influence of the State
4 Plan of Flood Control.

5 So those of us in flood management that are
6 working on the Central Valley Flood Plan and the State
7 Plan of Flood Control, we're kind of learning this
8 distinction between the sphere of influence of the
9 State Plan and the bigger Central Valley Plan or the
10 bigger Central Valley area which includes 32 counties
11 that we are looking at as part of the Central Valley
12 Flood Protection Plan. So there could be additional
13 facilities by which this applies.

14 But fundamentally, it is going to apply to
15 areas that have two -- that are within the 200-year
16 floodplains where the flood depths are greater than
17 three feet.

18 I am going to quickly go over what are some of
19 the recommendations that we have for reducing the flood
20 risks. And essentially, I don't have a slide on that
21 because it is still pretty preliminary, but I want to
22 kind of hit -- give you, leave you, with kind of the
23 top six, and I have kind of mentioned one of them
24 already.

25 One of the main lessons, number one is, from

1 Katrina we learned that many people -- there were over
2 1000 deaths in the New Orleans area for Katrina -- that
3 a lot of people were trapped in their homes. They
4 couldn't get out of their homes to an area above the
5 water to be rescued.

6 So we need to provide a clear path for escape
7 and rescue from the houses. And that may mean external
8 balconies, that mean some point that you can egress
9 into your attic and stand up in your attic and then
10 escape off -- or get onto the roof and that the slope
11 of the roof not be too steep so you can stand on the
12 roof. So we need to provide a clear path for escape
13 and rescue, and we will be working through various code
14 recommendations related to that.

15 BOARD MEMBER BROWN: Is this for all new
16 developments or just for those that are in harm's way?

17 MR. PENEDA: The way we read the Code is it
18 would be for new commercial and residential development
19 or for substantially improved development. It doesn't
20 get into that specifics, but that's the way we're
21 interpreting it right now.

22 BOARD MEMBER BROWN: Even though they're out
23 of the floodplain?

24 MR. PINEDA: Hm?

25 BOARD MEMBER BROWN: Even though they're out

1 of the floodplain?

2 MR. PINEDA: Well, these code requirements
3 would apply to facilities of the Central Valley Flood
4 Protection Plan, which will be adopted in 2012 for
5 areas that are in the 200-year flood plan where flood
6 depths are greater than three feet.

7 So, first of all, we have to define 200-year
8 floodplains and then we have to define where the flood
9 depth is greater than three feet, and it has to be a
10 facility of the Central Valley Flood Protection Plan.

11 So that's where these codes apply. If you are
12 outside -- if you are not a facility of the Central
13 Valley Flood Plan, it would not apply. If you're not
14 in a 200-year floodplain where the flood depths are
15 greater than three feet, it would not apply either. So
16 if you're out of the floodplain, then it wouldn't
17 apply.

18 It's a function of how you define the
19 floodplain, because there is the 100-year regulatory
20 floodplain by FEMA and then other regulatory
21 floodplains.

22 Did that answer the question?

23 BOARD MEMBER BROWN: The answer is no, right?

24 MR. PINEDA: If you are not in the floodplain?

25 Repeat the question for me?

1 BOARD MEMBER BROWN: Well, if you're talking
2 about these additional escape facilities for
3 developments, which is all going to cost extra money of
4 course, and the question was: Are those escape
5 facilities required for new buildings that's not in the
6 described floodplain?

7 MR. PINEDA: Yeah. If it's not in a 200-year
8 floodplain, where the floodplains are greater than
9 three feet, they will not apply.

10 BOARD MEMBER BROWN: Okay.

11 MR. PINEDA: And it has to be a facility of
12 the Central Valley Flood Protection Plan.

13 VICE-PRESIDENT HODGKINS: In a 200-year
14 floodplain, does that mean in effect that if a levee
15 failed and the depth of flooding and the failure would
16 be over three feet? Or does it mean an area that
17 doesn't have 200-year protection?

18 MR. PINEDA: I think, Member Hodgkins, it
19 would apply to both. As a component of the Central
20 Valley Flood Protection Plan, we have the Central
21 Valley Floodplain Evaluation and Delineation Project
22 where we're going to be defining 100- and 200-year and
23 500-year floodplains throughout the Central Valley.

24 So some of those floodplains are where there
25 is no structural flood protection, and others are where

1 there are structural flood protection and those
2 facilities that have flood protection provide
3 protection to a certain level. So when you exceed
4 that, there would be -- there would also be a
5 floodplain.

6 For example, portions of the Sacramento River
7 system that don't have 200-year, we would draw a 200 --
8 they may have 100-year protection, but we would draw a
9 200-year floodplain that may show areas land-side of
10 the levee.

11 So it's kind of a big picture view of the
12 200-year floodplains throughout the Central Valley.

13 But again, the code requirements would only
14 apply to the facilities of the Central Valley Flood
15 Protection Plan which will be a very detailed process
16 for the DWR and the Board to consider.

17 VICE-PRESIDENT HODGKINS: The question that I
18 was attempting to ask is: If you have achieved
19 200-year protection, do these building standards still
20 apply in the area behind the levee?

21 MR. PINEDA: I would believe the answer to
22 that would be no, but an organization would have to
23 certify that the project that provides 200-year truly
24 provides 200-year.

25 Right now, FEMA kind of does that for the

1 100-year, but right now, it might be the Department or
2 the Board that would do that for the 200-year project.

3 So once you have achieved 200-year protection,
4 we redraw the map, and the 200-year floodplain is now
5 contained by the levees or other flood control
6 improvements. So it would not apply to areas that have
7 200-year protection.

8 VICE-PRESIDENT HODGKINS: And yet if you
9 consider our definition of flood risk, where it's a
10 probability of occurrence and consequences, areas that
11 are potentially ten foot deep and the failure of a
12 levee are areas that would be well-served by having a
13 hatch on the roof so that somebody could get access.

14 So I would encourage you to think about
15 whether there are not sort of two classifications here,
16 those that apply to areas that don't have 200-year and
17 those that would apply whether you have 200-year or not
18 if the depth of flooding is over three feet.

19 MR. PINEDA: Okay. That's a very good
20 recommendation and an intriguing one.

21 So, essentially, you're saying that some of
22 the code standards, even if you have 200-year
23 protection and the flood depth would be significant, if
24 the facility providing the 200-year protection fails,
25 that some of these recommendations should be considered

1 for development in those areas.

2 VICE-PRESIDENT HODGKINS: That's correct. In
3 fact, my own feeling, without any detailed analysis of
4 the legislative language was the intent was, even if
5 you have 200-year protection, should you be building
6 differently than you do now to address, in effect, the
7 residual risk?

8 MR. PINEDA: I understand that you do realize
9 the constraint that I have based upon the legislation
10 as we're focusing on areas that are in the 200-year
11 floodplain where the flood depths are greater than
12 three feet. Whether the Department can go beyond the
13 legislative requirements and propose building standards
14 beyond what's stated in that section of SB 5, I'm sure
15 we'll certainly consider that, but I think you bring up
16 a good point.

17 The second recommendation is essentially that
18 of elevation. Where it makes sense to elevate, we
19 should increase the size of the foundation or fill
20 under the proposed structure to get that first floor
21 above the expected 200-year water surface.

22 But we know that when flood depths start
23 exceeding five feet, it's going to be very costly to
24 raise a structure. You can imagine five feet,
25 ten feet, 15 feet. You see some of that elevation

1 along the Garden Highway. But where it is less than,
2 say, three feet, it makes a lot of sense to elevate.

3 We want to make sure recommendation No. 3 or
4 Proposal No. 3 that we're considering right now for
5 inclusion in the white paper is: We want to make sure
6 that the structures, if they are flooded in these
7 200-year floodplains where the flood depth is greater
8 than three feet, that they're properly anchored to
9 their foundation to prevent flotation and to prevent
10 them being damaged or moved based upon lateral loading.
11 So proper anchoring is a very important one and an
12 important lesson that was learned out of Katrina.

13 The forth recommendation has to do with
14 Category 4 structures. That's a term used in the
15 California Building Codes and it kind of refers to
16 hospitals, power plants, power-generating stations,
17 water treatment facilities, and certain other buildings
18 where hazardous waste materials are located.

19 So we may want to consider building standards
20 that prevent the dispersion of those hazardous waste
21 materials that could be located in those facilities, if
22 they're located within 200-year floodplains where the
23 flood depth is greater than three feet, and that makes
24 a lot of sense.

25 The fifth recommendation -- I've got two more

1 to go -- is that it is logical to have requirements on
2 residential and commercial structures for automatic
3 shut-off of switching or valves for gas lines or
4 electrical lines if they're located below the 200-year
5 flood depth.

6 And the last one is, if we are going to build
7 in the wet, essentially where the first floor of
8 occupancy is below the 200-year flood depth -- say if
9 the flood depth in a 200-year flood plan, they have
10 100-year, but they don't have 200-year, and the flood
11 depths in the 200-year are greater than three feet but
12 it's too expensive to elevate, than there should be
13 consideration for use of flood-resistant materials up
14 to the expected elevation of the 200-year water
15 surface.

16 So we know that tile is a very good flooring
17 material compared to carpet, if it's going to get wet.
18 We know that concrete is to a certain degree better
19 than -- concrete or concrete block is better than wood.

20 So there is a whole -- there is a fair amount
21 of document -- technical documentation out there about
22 flood-resistant materials, and our plan right now is
23 we're currently going through that, and we may be
24 making some proposed recommendations related to use of
25 those -- the best flood-resistant materials up to the

1 200-year water surface elevation if the structure isn't
2 elevated.

3 So those are pretty logical ones, and we are
4 developing more, but we are kind of filtering them
5 internally.

6 So with that, I'm happy to answer any
7 questions.

8 PRESIDENT CARTER: Thank you, Mr. Pineda.

9 BOARD MEMBER BROWN: Are economics figured in
10 on this, the cost of these proposed facilities as
11 proposed to the probability of flooding?

12 MR. PINEDA: Yes, they are. And that's part
13 of the requirements of submitting a code change package
14 to the California Building Standards Commission. You
15 have to do an economic analysis to show that it's
16 economically feasible, that the code changes that are
17 proposed do not pose adverse economic effects.

18 In discussions with the State Architect and
19 other stakeholders, that's a pretty tough process, the
20 adoption of the IBC, the International Building Code
21 requirements, which was their last big change. In the
22 current green building standards, they seem to have
23 been able to work through that.

24 But yes, economic analysis is part of it, and
25 we have an economist on our team to help us with that.

1 VICE-PRESIDENT HODGKINS: In the economic
2 analysis, is it a cost benefit or just not
3 significantly increase the cost?

4 MR. PINEDA: I think it's -- I believe it has
5 to do with the benefit costs analysis. So we going to
6 need to grind through a quantitative and qualitative
7 analysis, but we feel that things like the safe escape
8 route for rescue, we don't see that as a high-cost
9 thing; and it, you know, could save lives. And there
10 is continued recent analysis of how much a life is
11 worth from an economics perspective that I've seen in
12 the literature.

13 So the sense is, in discussions with the
14 Building Standards Commission, is if we go about this
15 correctly and really propose some logical improvements
16 like the shut-off valves and flood-resistant materials,
17 that the economics will prove -- or economic analysis
18 will prove that these are viable.

19 But where it gets tricky, Mr. Hodgkins, is
20 with the elevation, when you have to elevate
21 significantly, so that will be the tough one. But we
22 may kind of -- we may recommend elevation up to a
23 certain level makes sense, and past that use that
24 flood-resistant materials.

25 VICE-PRESIDENT HODGKINS: Don't forget about

1 how houses used to be built.

2 MR. Pineda: That's correct. You want to
3 elaborate on that, or do you want me to?

4 VICE-PRESIDENT HODGKINS: Well, if you look at
5 the current cost of building a house, I don't know,
6 \$150 a square foot, and you think about the cost of
7 building that with the first floor ten feet above the
8 surface of the ground and then go back and compare that
9 to the damage that would occur using the Corps process
10 if that house were flooded every 201 years, I think it
11 still might be cost effective to raise the damn house.

12 So you are going to hear a lot from me about
13 residual risk, okay? So, you know, 200-year today; in
14 15 years, we'll be looking for 500-year.

15 MR. PINEDA: Well, I appreciate your comments
16 and feedback. I will be happy to come back at any time
17 and continue to work with the Central Valley Board
18 staff. And I think Mr. Raymer submitted a card, but
19 I'll let Mr. Carter call on him.

20 Is there any further questions for me?

21 PRESIDENT CARTER: Are there any questions
22 for --

23 BOARD MEMBER BROWN: No. I have a comment,
24 though, having lived through a flood in Visalia when
25 the Kaweah and St. Johns flooded over. And they caused

1 a lot of damage to people and a lot of costly
2 improvements to the homes and such in repair.

3 But since they constructed the Terminus Dam
4 down there on the Kaweah, there has been no flooding.
5 And I realize that on-stream dams is kind of out of the
6 picture for time being, but is there any consideration
7 being given to providing upstream flood control
8 protection, instead of all these measures or
9 improvements downstream, which accumulatively can be
10 considerable in cost?

11 MR. PINEDA: Well, I think that structural
12 solutions, which include less water coming into the
13 system via storage, as you refer to, is in the toolbox
14 when we think about structural solutions.

15 You know, either we're keeping the water away
16 from the people by the levees or we're holding the
17 water back and releasing it slower via the flood
18 control reservoirs, or keeping people out of harm's way
19 via zoning or we're encouraging people to have flood
20 insurance to reduce the impacts if they do get wet or,
21 for example, this Building Standards Proposal to build
22 safer residential and commercial structures so the
23 damages aren't that great.

24 So I do believe that, you know, upstream
25 reservoir is part -- is an existing tool for us. And

1 studies, you know, that have occurred in the past,
2 continue to consider flood storage if new reservoir are
3 being built.

4 But that, as you can guess, considering
5 upstream storage is not part of the building standards
6 process for us. Just like we can't recommend an ax in
7 the attic because it is not a permanent part of the
8 structure, the building standards can't get into land
9 use or recommending things like upstream storage.

10 BOARD MEMBER BROWN: Okay.

11 PRESIDENT CARTER: Any other questions,
12 comments for Mr. Pineda? Thank you, very much.

13 MR. PINEDA: Thank you.

14 PRESIDENT CARTER: Mr. Raymer, would you like
15 to address the Board?

16 MR. RAYMER: Good morning. Thank you,
17 President Carter and Board members. I'm Bob Raymer,
18 Technical Director and Staff Engineer for the
19 California Building Industry Association, and I also
20 serve as the Building Standards Commission's chair of
21 their Building and Fire Code Advisory Committee, so
22 when Ricardo brings his regulatory package forward,
23 there's about ten of us experts in various fields that
24 will be looking over this.

25 But I must say, Ricardo has already engaged a

1 great many of us into this process. Although building
2 standards can be somewhat technical and complicated in
3 California, he's already got the ball moving. He's not
4 only engaged CBIA, but we're looking at forming a task
5 force with local building officials in this area,
6 designers, engineers, members of the public.

7 And he's already got all of the state agencies
8 that needed to be contacted, contacted. So this
9 project is moving forward very well. The Department of
10 Housing and Community Development, the State Fire
11 Marshall, the Energy Commission, and most importantly,
12 the Building Standards Commission have all been
13 contacted. We've got a nice productive relationship
14 going on now, and we're looking forward to working with
15 DWR on this project.

16 I must also say, in building standards, in
17 answer to Board Member Brown's issue on terms of where,
18 a building standard has two very important components,
19 the what, which is the specification, and the where.

20 Our seismic safety provisions in California,
21 for the most part, we've got three seismic zone
22 categories throughout the state. For the energy
23 efficiency standards, we have 16 climate zones. The
24 regulations in each one of those climate zones for
25 energy efficiency varies from one climate zone to

1 another.

2 And the same thing can happen with this.

3 There will be areas of the state where you don't have
4 to worry about this, but there will be other areas that
5 you are going to have to build.

6 Now Ricardo has got a number of good options
7 to proceed forward. The statute merely said that you
8 need to get your first package, a package, into the
9 Building Standards Commission by January 1 of 2009.

10 It does not limit him to just that one
11 package. It does simply afford him the ability, as
12 time goes on, this package can be updated, and we most
13 certainly will be looking at updating that.

14 The building standards also allows you a
15 couple of options, and that is in the body of the code,
16 that is where you put the mandatory stuff. If you're
17 still working on an idea and trying to flush things
18 out, maybe work the bugs out over the next couple of
19 years, you can put things into the appendix so that
20 local jurisdictions, if they so choose, can access
21 that. So there is lots of options here.

22 One thing I would like to speak to, the first
23 of his six options that he mentioned. If you look at
24 what happened in Katrina, rather tragic loss of life,
25 particularly those that were trapped in above-grade

1 attics, there is a couple of things that should be
2 pointed out for western U.S.

3 Particularly here in California, the design of
4 single-family homes has changed drastically over the
5 last 20 years. We are almost always putting things
6 slab-on-grade these days, well over 90 percent of new
7 homes are built slab-on-grade.

8 Attics, the type of attics that were familiar
9 to the Katrina instance in New Orleans where you can
10 actually stand up, perhaps even have a small bedroom up
11 in the attic, we've all but stopped building those.
12 The attics -- if and when we do have attics in homes in
13 California now, they're usually the attics that can
14 contain HVAC systems, your heating, ventilating, and
15 air conditioning systems, perhaps water heaters or
16 whatever, not the type of thing you would go up and use
17 for storage or to move around in.

18 But more importantly, once you get west of the
19 Mississippi, for the past 40 years, we have been using
20 the Uniform Building Code that the International
21 Conference of Building Officials had put together, and
22 we have now moved into the International Building Code.
23 So once you get west of the Mississippi, for the past
24 40 years, any home built out here, particularly in
25 California, has had to have two means of egress from

1 each bedroom.

2 That wasn't the case in Katrina. You had a
3 front door -- you had a door to the bedroom, but you
4 weren't necessarily required to have that secondary
5 means of egress, the window, to get out of that
6 bedroom, and there's a direct loss of life that
7 occurred because of that.

8 Here in California, that's not the issue.
9 That's not to say that we don't need emergency egress
10 above and beyond what we've already got. I suggest
11 that we probably will be looking at doing that. But
12 certainly, the issue of -- you see a lot of trap doors
13 being out into roofs in New Orleans buildings. That's
14 a retrofit issue to try to deal with the fact that
15 you've only got one door into the bedroom but no way to
16 get out if you can't get back out of that door.

17 So these are the things we'll be looking at.
18 Ricardo's done a great job of getting this project off
19 and rolling, and we look forward to working with him.

20 Any questions?

21 PRESIDENT CARTER: Thank you. Any questions
22 for Mr. Raymer?

23 BOARD MEMBER BROWN: No question, but why
24 would you end up in a bedroom with only one door if a
25 flood was coming?

1 MR. RAYMER: I would ask that question too.

2 I'm not quite sure why individuals chose, in Katrina,
3 to go up into that bedroom or into the attic when you
4 had no other means of egress.

5 But here in California, you do have other
6 means of egress. You've got that window. The primary
7 reason for that second means of egress is not only for
8 fire, it's for earthquake and for flood and a host of
9 other problems that could arise to allow you a
10 secondary means of egress. So effectively, you are not
11 trapped in your own house.

12 In the Southern Building Code Congress area,
13 which is seven states in the South, including Florida
14 and New Orleans, there was I would have to say a rather
15 history of inadequate code enforcement that still
16 exists today.

17 In California, you've got literally an army of
18 building officials in cities and counties that are not
19 only looking at code compliance at plan check, but
20 throughout the construction of the house. I don't
21 think it would be possible to build a bedroom in
22 California without a window today, or for the last
23 20 years.

24 So a lot of the problems, the tragic problems
25 that you saw happen in Katrina, I'm not saying it is

1 impossible to happen here. Perhaps there is some very
2 old dwellings in California that could be an issue in.
3 But in new residential construction, we've come a long
4 way. We're paying higher costs for that new
5 construction, but they are certainly a whole lot safer
6 than they were 50 and 60 years ago.

7 BOARD MEMBER BROWN: Thank you.

8 PRESIDENT CARTER: Thank you. Any other
9 comments?

10 Very good. We'll move on to Item 6 then,
11 report of Three Rivers Levee Improvement Authority,
12 their monthly report.

13 Good morning Mr. Brunner. Welcome.

14 MR. BRUNNER: Good morning, Present Carter,
15 Members of the Board. I'm Paul Brunner, the Three
16 Rivers Levee Improvement Authority Executive Director.

17 As usual, we have our report that we have with
18 updates that we have on our program. It is getting
19 shorter, which is good, and the project is coming to
20 completion. What I am going to focus on today is
21 really two areas. One is on funding, and then on the
22 construction activities, which are really the fun part
23 of the job of getting the levees done and being built.

24 As far as trying to go point by point through
25 my monthly report, I think it's pretty

1 self-explanatory. If there are questions, people feel
2 free to ask. I'm sure you will.

3 In regards to funding, George Qualley was
4 mentioning that the State has contributed about \$40
5 million so far. They are actually in the process of
6 processing another \$14 million for construction, so
7 that brings that up to close to \$54 million, and from
8 the local share, we have contributed about \$20 million.

9 So invested into this project for the Feather
10 River work on segments 1, 2 and 3, is about
11 \$74 million, which is a lot of money. So that
12 constitutes a lot of activity, a lot of land purchases.
13 The project overall cost is \$192 million, so we've
14 still got a ways to go, but approximately 40 percent is
15 funded.

16 So when the question comes up, are we funded
17 and where we're going, we are receiving funds. We are
18 receiving funds on a very timely manner, which is
19 equating itself to a tremendous amount of construction.
20 I'm going to come back to this and I may need -- there
21 we go. Is it going to switch over?

22 Okay. On this, this is an overall picture of
23 our levee system. And for orientation, the Yuba is up
24 here flowing this way, coming down to the Feather and
25 this is the Bear here. Marysville is located right

1 here on this graphic.

2 I am going to zoom-in on what we are doing on
3 construction. I am going through an orientation here.
4 This is the Yuba levee work that we are doing. The
5 color scheme in here, the blue and the yellow and the
6 purple are certified levees.

7 We are still coming back to work on this.
8 This portion of the Yuba work recently received a PAL,
9 Provisionally Accredited Levee. It was submitted to
10 it. And we still have a little bit more work to do
11 there, looking for a hydraulic analysis as to what the
12 Corps -- we're working with the Corps to come up with a
13 new model for that portion of the levee and determine
14 exactly what we need to do.

15 Down here is the Bear setback that was
16 certified in the Western Pacific Interceptor Canal. It
17 was done already, and that is certified.

18 The area that we're currently working, the
19 \$192 million project, is this long red line here. That
20 is 13 miles of levee work that we have under
21 construction currently right now.

22 I'm going to zoom in. And let me start with
23 the north end, hopefully. Is that focused well enough
24 for you? It is?

25 The -- up through here is Segment 3 of the

1 Feather River work. In this particular portion of the
2 levee, what we're doing there is improving with cut-off
3 walls, water blankets, some piezometers and that that
4 are going in through here.

5 This is strength-in-place option. I reported
6 last time that this was under construction. We are
7 currently about 90 percent done with this work in this
8 area. Our trench collapsed that we had. It occurred
9 on a slurry wall. It was right around in this area and
10 through here.

11 Jay Punia, did sign the revised permit
12 yesterday for us to put in the seepage berm, that's the
13 final fix. So we will be completing that work right in
14 through here very soon. And once we have that and put
15 in the gate valve for our railroad crossing that's up
16 here, we'll essentially be done with this portion of
17 the work.

18 This work is being done by Nordic Industries.
19 Down through here, going to the setback last, from the
20 Bear up to Star Bend is Segment 1. This work is also
21 being done by Nordic Industries. They are underway and
22 under construction and the strength-in-place option.
23 Here they are putting in cut-off walls again, doing
24 some piezometers and other things like that, water
25 blankets, on this levee to make it strong for the

1 200-year protection. This is about 15 percent done.

2 So if you were to come out today, you'd see a
3 lot of work on Segment 1, a lot of work going on
4 Segment 3, well underway construction. And Nordic
5 would very much like to finish this work earlier
6 because they have other work to where they want to move
7 their equipment to, and we anticipate this to get done
8 relatively quickly.

9 Moving to the middle section from Star Bend up
10 to Shanghai Point on the Feather River, this is the
11 area where we have been working now. We had our
12 ceremony of groundbreaking that was really well.
13 President Carter came and attended to that in late May.

14 But this is the existing levee that will -- we
15 plan to grade in 2009, and we're well underway in
16 construction on this now for the setback. Right in
17 this area through here, if you were to come out, you'd
18 see at least a mile stretch of orchards that have been
19 removed, areas being cleared and grubbed.

20 The slurry wall foundation actually started
21 two days ago, putting up to work through here, coming
22 up this way here, the clearing and grubbing equipment
23 is moving on up the levee.

24 We're avoiding areas that are still under
25 federal jurisdiction that we are still working with the

1 Corps on to get that through for the finalization of
2 that process. But we're well underway with Teichert
3 that's doing this work and laying out clearing and
4 grubbing and putting in slurry walls.

5 We are going to start hauling dirt for the
6 embankment placement in this area down in this portion
7 of the levee, probably within 30 days. So you'll
8 you -- are going to see major transformation occurring
9 out there on Segment 2, a lot of truck traffic and
10 that. Our areas have been posted on signs if there are
11 concerns for folks.

12 We do have a hotline. This goes to a TRLIA
13 contact point that then fans out for that. We're
14 trying very hard to maintain dust control. There are
15 still a lot of orchards in the area that are farming in
16 the area. We're trying to minimize that, and we are
17 trying to work with the landowners to avoid issues as
18 we do the work.

19 SECRETARY DOHERTY: Where you are borrowing
20 earth from?

21 MR. BRUNNER: There is a couple of areas. The
22 over -- let me zoom in. There's a golf course on
23 Country Club Way. Right across the street there is
24 some property that we acquired where we'll be
25 borrowing, so we are going to have flagmen and traffic

1 going across Feather River Boulevard, feeding here.

2 There is a portion of land here from the Uppal
3 property that we're borrowing from that we acquired
4 that has the right type of dirt. There is also a site
5 over here on Ella Road that we are going to be
6 acquiring dirt for a feed-the-levee embankment up in
7 this portion of the levee.

8 There is also a large portion of the interior
9 on the setback area that we're going to be acquiring or
10 we actually have gone into proceeding to acquiring, but
11 we are trying to work out the schedule with the various
12 landowners for their orchard operations and move
13 forward.

14 SECRETARY DOHERTY: And that earth, that at
15 one point you want to put the levee on, that earth is
16 stable enough to use in the levee?

17 MR. BRUNNER: What happens there is that there
18 are portions of the earth is okay. Take for example,
19 we're acquiring a portion of the property here where
20 what we are having to do -- an 80-acre parcel. We have
21 to scrape all the sand away, put it on the side, and
22 then we mine down to a portion of the soil that's good,
23 and then we don't go any deeper because it's not good.

24 So we have systematically gone out and done
25 test pits, drilling, some boring, to find out where we

1 are. In fact, that's part of the reason why we've come
2 over here to another location on the eastern side of
3 the levee to find good soil. Another -- in fact, in
4 the location where we had the ceremony for the
5 groundbreaking is a mining area that we'll be taking
6 some soil from. And then over here also we will be
7 getting soil.

8 So a lot of activity is taking place, and
9 work's going forward. Our draft Environmental Impact
10 Statement for the work that we have with the Corps was
11 published on July 11th in the Federal Register. So
12 that time is ticking through there for public comment.
13 It will close on August 25th, and we'll continue to
14 finalize the permitting process and try to get as much
15 of the levee work done as possible this year.

16 So with that, I will close and ask for
17 comments and questions.

18 PRESIDENT CARTER: Any questions or comments
19 for Mr. Brunner?

20 BOARD MEMBER BROWN: No question, but a
21 comment. It has been some time since the Board has
22 been up there to see the progress report on this
23 project, and the time might be fast approaching when
24 that would be a good thing to do again, Mr. Chairman.

25 PRESIDENT CARTER: Okay.

1 MR. BRUNNER: We would welcome you to come.

2 If you're into that levee work, it is really exciting
3 to go see it actually being constructed, built, and you
4 see real flood protection going in.

5 PRESIDENT CARTER: Okay. We are, I believe,
6 planning a trip to the San Joaquin Valley. I believe
7 it is next month, isn't it?

8 EXECUTIVE OFFICER PUNIA: Yolo Bypass field
9 trip is scheduled for August. We can discuss it and
10 maybe we can make a one-day field trip. We will
11 discuss it and plan in either August or September.

12 PRESIDENT CARTER: Okay. Very good.

13 MR. BRUNNER: Thank you.

14 PRESIDENT CARTER: Thank you.

15 VICE-PRESIDENT HODGKINS: I'd like to
16 compliment Mr. Qualley and the Department of Water
17 Resources for moving forward with these cost-sharing
18 agreements in a way that allows money to be advanced.

19 I know that must have been a challenging thing
20 to do, and I think that was essential for projects like
21 this one. But that is really good hard work, guys, to
22 figure out a way to do that. That is great work.

23 Thank you.

24 PRESIDENT CARTER: Very good. Ladies and
25 gentlemen, let's take a ten-minute recess, and we'll

1 reconvene here in ten minutes and move on with our
2 agenda.

3 Thank you.

4 (Recess)

5 PRESIDENT CARTER: Ladies and gentlemen, if I
6 could ask you to take your seats, we'll go ahead and
7 continue with the meeting.

8 As you recall, we just finished up Item 6 on
9 our agenda. And we're moving on to Item 7, which is
10 our Consent Calendar. And as you also recall, when we
11 approved the agenda, we removed Items 7E and 7H from
12 the Consent Calendar and changed Item G to read San
13 Joaquin County instead of Sutter County. So I will --
14 Mr. Punia, do you have a comment?

15 EXECUTIVE OFFICER PUNIA: Yes. Jay Punia,
16 Executive Officer for the Central Valley Flood
17 Protection Board.

18 I just want to let the Board know that Item
19 7A, 7B, 7C, 7D, 7F, 7I, J, and L, we haven't received
20 the Corps' letters for these projects, but we -- based
21 upon our discussion with the Corps staff, we don't
22 foresee any problem. So if the Board -- staff
23 recommendation is that the Board can keep this on the
24 consent and that we will issue the permit only after we
25 have received the US Army Corps of Engineers

1 concurrence and their letters.

2 PRESIDENT CARTER: So we'll entertain a motion
3 to take action on the Consent Calendar with the --
4 subject to or delegating the authority to the General
5 Manager to sign the permit subject to the receipt of
6 complete documentation from the Corps on Item 7A, B, C,
7 D, F, I, J and L.

8 BOARD MEMBER BROWN: Mr. Chairman, I also move
9 that motion. But I do have just a couple of questions
10 on them, if I may.

11 PRESIDENT CARTER: Please.

12 BOARD MEMBER BROWN: On 7C, just a matter of
13 interest, if you turn to it, it's moving two restrooms
14 in the leach field and so forth, and they talk about
15 removing the leach field, but they don't say what the
16 new septic system is going to be, or if -- is it
17 another leach field? Or are they connecting into some
18 kind of a city sewer there?

19 SECRETARY DOHERTY: It's an excavated leach
20 field?

21 BOARD MEMBER BROWN: It says it wants to take
22 out, as I understood it.

23 EXECUTIVE OFFICER PUNIA: I am going to ask
24 Gary or Steve Dawson or Jon Yego to answer this
25 question.

1 BOARD MEMBER BROWN: Is it a new leach line
2 they're putting in or?

3 PRESIDENT CARTER: So this is Permit No.
4 18332, Sacramento County Parks, to remove two existing
5 restrooms and install new preconstructed restrooms,
6 excavated leach field, and abandon existing waterline
7 and install new waterline.

8 BOARD MEMBER BROWN: Okay. So it is a leach
9 field.

10 EXECUTIVE OFFICER PUNIA: Yes.

11 BOARD MEMBER BROWN: Then another one, if I
12 may, on 7D?

13 EXECUTIVE OFFICER PUNIA: Yes.

14 BOARD MEMBER BROWN: You've already answered
15 that question with the Corps permit not coming.

16 Then the next one is on 7J. I see again where
17 we have trees being planted on the levees. It doesn't
18 say what kind of trees. And I'm really not for trees
19 on levees.

20 PRESIDENT CARTER: Do we have any information
21 with regard the species of trees and placement of the
22 trees for Permit No. 18359, City of Chico?

23 EXECUTIVE OFFICER PUNIA: Gary or Steve Dawson
24 or Jon Yego, if we have that information handy?

25 CHIEF ENGINEER HESTER: I'd like to ask Steve

1 Dawson to come down and cover the summary of the staff
2 report then.

3 BOARD MEMBER BROWN: I guess we're still
4 working on what the Corps of Engineers is advising us
5 to do or telling us what to do, as far as trees are
6 concerned?

7 EXECUTIVE OFFICER PUNIA: Yes. US Army Corps
8 of Engineers staff, Jim Sander, is in the audience.
9 Let's see -- I think he just stepped out, but Jim is
10 here. I think he can address and clarify any question
11 on the vegetation. If this is a good time, Jim can --

12 DEPUTY ATTORNEY GENERAL CAHILL: We're going
13 to be doing a discussion of this. You might want to
14 pull it off consent.

15 EXECUTIVE OFFICER PUNIA: I think we'll be
16 discussing that item as part of Item No. 10, PL 84-99.
17 Jim will be explaining the vegetation policy.

18 BOARD MEMBER BROWN: I'm all right with
19 leaving it on consent, Mr. Chairman. Just a matter of
20 interest here. I am not going to object. If we have
21 the answer, fine. If not, that's okay, Steve.

22 MR. DAWSON: Steve Dawson, Floodway Protection
23 Section.

24 The plantings up there are native species that
25 are listed in Title 23, and the planning plan was

1 presented. It was per an adopted plan that we have
2 used before in that area. This method of restoration
3 has occurred half a dozen times in this area. It is a
4 preexisting plan that has been used many times.

5 BOARD MEMBER BROWN: Okay. I'm all right.
6 Let's move on on this. But again, I think it puts an
7 emphasis on where we are we headed with this Board as
8 far as planting any kind of trees on levees, either on
9 waterside or, for that matter, the landward side.

10 PRESIDENT CARTER: And we are attempting to
11 get some clarification and reconcile some of the
12 seemingly conflicting guidance we're getting on
13 different standards for these. So -- but we haven't
14 resolved that yet.

15 BOARD MEMBER BROWN: Okay. My motion for
16 adoption of the consent still stands, Mr. Chairman.

17 PRESIDENT CARTER: Okay. We have a motion.
18 Is there a second?

19 VICE-PRESIDENT HODGKINS: I'll second.

20 PRESIDENT CARTER: We have a second.
21 Mr. Punia, could you call roll, please.

22 EXECUTIVE OFFICER PUNIA: Board Member, Emma
23 Suarez.

24 BOARD MEMBER SUAREZ: Aye.

25 EXECUTIVE OFFICER PUNIA: Board Vice-President

1 Butch Hodgkins.

2 BOARD VICE PRESIDENT HODGKINS: Aye.

3 EXECUTIVE OFFICER PUNIA: Board Member John
4 Brown.

5 BOARD MEMBER BROWN: Aye.

6 EXECUTIVE OFFICER PUNIA: Board Member Lady
7 Bug.

8 BOARD MEMBER LADY BUG: Aye.

9 EXECUTIVE OFFICER PUNIA: Board President, Ben
10 Carter.

11 PRESIDENT CARTER: Aye.

12 So the motion carries unanimously. Thank you.

13 As noted earlier in the meeting, we do not
14 have any hearings or decisions. Item 8 was postponed
15 to a future agenda. As was requested, Item No. 9, on
16 the Natomas Levee Improvement Project. So we are ahead
17 of schedule.

18 What we are going to do is move on to on
19 untimed items and specifically -- let's go ahead.
20 Mr. Punia, are you ready to give your report as
21 Executive Officer?

22 EXECUTIVE OFFICER PUNIA: Yes, I am.

23 PRESIDENT CARTER: So we'll move on to Item
24 17.

25 EXECUTIVE OFFICER PUNIA: I'll move to the

1 podium.

2 PRESIDENT CARTER: Okay. We may get out of
3 here early.

4 EXECUTIVE OFFICER PUNIA: Once again, good
5 morning Board President Ben Carter and Board Members.
6 Jay Punia, Executive Officer for the Central Valley
7 Flood Protection Board.

8 I have a few general information items, and I
9 will be glad answer questions.

10 The good news first. The Governor's Office
11 yesterday informed that all the pending issues related
12 to the Board Members' salaries have been resolved, and
13 they will be moving the paperwork so that the Board
14 Members can be paid their salaries to the next level.
15 That's approved by the Department of Personnel
16 Administration.

17 As you may recall, last Board meeting, we had
18 a briefing from Dante Nomellini and Chris Neudeck
19 regarding Reclamation District 17 proposed work. So
20 they are moving aggressively so that they can get the
21 permit and start construction this year if possible.

22 So we have lined up a meeting on July 24th,
23 where we have invited Department of Water Resources,
24 various people involved in Reclamation District 17
25 proposed work so that we are on the same page, and we

1 can give a joint message to the applicant that when all
2 things can come in place and when we will be able to
3 issue the permit.

4 And as you may recall, encroachments on the
5 Bear Creek and Calaveras River, we are working with the
6 San Joaquin County so that we can address in a timely
7 fashion the encroachments on the Bear and the Calaveras
8 River.

9 We haven't yet heard extension from the US
10 Army Corps of Engineers. We have applied for a time
11 extension through the end of this year. US Army Corps
12 of Engineers has asked additional information from us.
13 We are responding to their requests.

14 And in the meantime, we are forming the action
15 plan developed collectively with the San Joaquin
16 County, Department of Water Resources, the Board, and
17 the US Army Corps of Engineers.

18 Gary is the closely working -- Gary Hester,
19 the Chief Engineer of the Board, is working closely
20 with the San Joaquin County. I would ask Gary to brief
21 the Board where we are as far as addressing those
22 encroachments.

23 CHIEF ENGINEER HESTER: We are midway through
24 the identification of which encroachments are
25 significant enough to constitute a maintenance

1 deficiency. We expect to hear from the US Army Corps
2 of Engineers by a week from today what they consider to
3 be significant enough that needs to be removed.

4 We had submitted our information to the Corps
5 at the end of June, and the process from here will be,
6 once we have that determination of which encroachments
7 will need to be removed, the Board staff will send out
8 letters to the property owners notifying them of those
9 encroachments. Those letters will go on August 1st.
10 The letters will also explain Title 23 requirements in
11 terms of giving them an opportunity for a hearing.

12 Later today, when we talk about the future
13 agenda, I have a draft item on the agenda that would
14 discuss a status report for our August meeting in which
15 we will not only bring you up to date in terms of the
16 numbers of encroachments that we're talking about but
17 also talk about the hearing process.

18 And Board President Carter has the ability to
19 appointment a hearing officer if the Board chooses, and
20 if property owners in receipt of letters -- our best
21 outcome is certainly for people to voluntarily remove
22 encroachments. But should they request a hearing, then
23 we will schedule a hearing.

24 The intent here is to provide enough time to
25 actually remedy these encroachments prior to flood

1 season, and that's why I wanted to give you some
2 advance time to think about the hearing process that we
3 will probably undertake here in the next couple months.

4 The information we provided to the Corps to
5 support the extension request that we submitted on
6 behalf of the county we provided to Sacramento District
7 this week, and they supplied the Division office in San
8 Francisco that additional information to support the
9 extension request.

10 EXECUTIVE OFFICER PUNIA: And we will also
11 have a public workshop. We will work with the San
12 Joaquin County so that before the letters are issued to
13 the property owners we have a chance to meet with the
14 public also. So Gary, we have a tentative date for
15 that meeting?

16 CHIEF ENGINEER HESTER: We have
17 representatives from the county here today. Steve
18 Winkler from San Joaquin County Public Works is here.
19 We are still in the process of discussing when the
20 timing of that public meeting would be the most
21 effective way to communicate with the property owners
22 in question.

23 PRESIDENT CARTER: Mr. Hester, when you say
24 that the Division supported our request for an
25 extension: The decisionmaker is the Headquarters, so

1 we don't know if that request is going to be granted
2 yet.

3 CHIEF ENGINEER HESTER: Yes. And I should
4 clarify that we provided additional information in
5 support of the request. They have not made a
6 determination about whether they have -- will be
7 recommending that Headquarters grant that request.
8 They are still in a decision mode in terms of the
9 information we provided.

10 PRESIDENT CARTER: Do we have any idea when
11 they may take action on that, when they will decide
12 whether or not they are going to support and recommend
13 to Headquarters to grant the request? Do you know what
14 the time frame is?

15 CHIEF ENGINEER HESTER: I think, if you would
16 like to have Jim Sander address that question, he has
17 certainly been involved in those discussions.

18 PRESIDENT CARTER: Okay. Mr. Sander could
19 you?

20 MR. SANDER: Good morning Mr. President,
21 Members of the Board. Jim Sander, Operations,
22 Readiness, Corps of Engineers, Sacramento District.

23 PRESIDENT CARTER: Good morning.

24 The question is: We've been working closely
25 with the District and the Division with regard to the

1 encroachments along the Bear Creek, Calaveras River.
2 We have made a request for an extension in terms of
3 time. Wondering what the timing is in terms of when
4 the Division is going to make a decision as to whether
5 or not they're going to recommend that the Headquarters
6 grant the request for an extension or not.

7 MR. SANDER: We are currently working with our
8 counterparts in Division. We have had discussions with
9 them this week. They had asked for an answer back from
10 the District by the 15th of July.

11 We have coordinated with them and said that we
12 didn't have all the information that we needed
13 currently, and we are proposing to give them an answer
14 next week. They have agreed to that.

15 Until we provide a response back to the
16 Central Valley Flood Protection Board, the projects
17 will remain active. So until there is a final decision
18 by either our Division office or our Headquarters
19 office, the projects will remain in an active status.

20 PRESIDENT CARTER: Okay. And the
21 decisionmaker in this process is Headquarters or
22 Division?

23 MR. SANDER: Actually, the decisionmaker is
24 the Assistant Secretary of the Army.

25 PRESIDENT CARTER: Okay. Very good. Thank

1 you.

2 MR. SANDER: Okay. Thank you.

3 EXECUTIVE OFFICER PUNIA: So I think the
4 bottom line is, the request is still at the Division
5 level. They are asking for the clarification and then
6 they will be forward our request to the Headquarters,
7 and they will make the final decision.

8 BOARD MEMBER BROWN: Gary had mentioned a
9 hearing on behalf of our Board. What specifically
10 would that hearing be on?

11 EXECUTIVE OFFICER PUNIA: Gary will elaborate
12 on that.

13 CHIEF ENGINEER HESTER: The letters that will
14 go out August 1st will specify specific encroachments
15 that we are requesting to be removed that constitute a
16 hazard. And if the property owner chooses to request a
17 hearing, they have 30 days to respond to that letter.

18 So by the end of August, we will know how many
19 people do want to have that hearing. The hearing would
20 basically review the evidence of not only why we feel
21 it's important for that encroachment to come out, but
22 it would give the property owner an opportunity to
23 provide evidence that they wanted to bring forward.

24 The hearing officer then would make a judgment
25 based on that evidence, present it, and the results of

1 that, of that hearing process, would then come before
2 the full Board at the September meeting. And so there
3 would be a report based on the hearing, and the Board
4 would have the opportunity to review that report and
5 take appropriate action.

6 BOARD MEMBER BROWN: Well, would staff be the
7 proponent on the hearing for -- to acquire the property
8 or easements on the property? Who are the two parties?

9 CHIEF ENGINEER HESTER: The letter that staff
10 will send out will request that encroachments come out.
11 And the purpose of the hearing is to allow the property
12 owner then to make their case in front of the hearing
13 officer.

14 BOARD MEMBER BROWN: And then it would be up
15 to our staff to make the other case, and then the Board
16 would decide between the two.

17 CHIEF ENGINEER HESTER: That's correct.

18 BOARD MEMBER BROWN: So our staff would be a
19 party then.

20 CHIEF ENGINEER HESTER: Our staff, and
21 actually the Corps of Engineers has also a key role in
22 reviewing the determination of which of these
23 encroachments constitute a maintenance deficiency,
24 impede flood fight. You know, if there are solid wood
25 fences that keep you from seeing evidence of seepage

1 during high water, that's the kind of discussion that
2 we're having.

3 BOARD MEMBER BROWN: Okay. So the Corps and
4 our staff would present evidence of why it is
5 appropriate, and then the landowner would present
6 evidence of why they prefer not to have it.

7 CHIEF ENGINEER HESTER: That's correct.

8 BOARD MEMBER BROWN: Okay.

9 VICE-PRESIDENT HODGKINS: Gary, it seems to me
10 there might be two different circumstances: A
11 permitted encroachment that now has to be removed, and
12 an encroachment that was never permitted in the first
13 place. In the case of the latter where there's no
14 permit for the encroachment, do they still get a
15 hearing?

16 CHIEF ENGINEER HESTER: No. I don't believe
17 so. I believe we can make a determination that that
18 encroachment needs to be removed and work with the
19 local maintaining agency.

20 VICE-PRESIDENT HODGKINS: Okay. So we don't
21 yet know which classes they fall into?

22 CHIEF ENGINEER HESTER: Yes. And that's been
23 part of the identification process because there are
24 some unusual circumstances here where some of the
25 encroachments actually are written into easements that

1 predated the project.

2 And so we have had to be very careful about
3 sorting through, you know, what the issues are in terms
4 of whether the property owner has a right to that fence
5 or not.

6 VICE-PRESIDENT HODGKINS: Mr. Chairman?

7 PRESIDENT CARTER: Yes.

8 VICE-PRESIDENT HODGKINS: If staff becomes a
9 party, then that means we bifurcate our staff and we
10 have staff that will support the Board during the
11 hearing and then staff that would support their
12 position during the same hearing? Just for the record,
13 I believe that's correct, and we have a couple of
14 attorneys up here that might nod their head yes or no
15 on that.

16 BOARD MEMBER SUAREZ: I cannot think about in
17 terms of even if the encroachment is in a permit. I
18 mean, it's still a -- they don't have a right. I mean,
19 it's -- so, to me, the legal implications of the
20 process are a little lessened because it's a privilege
21 we're giving them to put that encroachment in.

22 DEPUTY ATTORNEY GENERAL CAHILL: You know, I
23 think we'll be discussing all of this in more detail at
24 the next meeting.

25 VICE-PRESIDENT HODGKINS: Don't those

1 letters -- aren't they going out before our next
2 meeting?

3 PRESIDENT CARTER: Yes, they are.

4 VICE-PRESIDENT HODGKINS: Are they going to
5 address this issue? Are they going to tell people
6 about their rights?

7 I'm worried we're going to get in a position
8 we're going to miss our deadline. But I guess those
9 letters can go out even though we haven't made a
10 decision.

11 I think the letters are likely to invite the
12 people whose permits, whose encroachment has to be
13 removed, to a meeting to discussion that in Stockton.
14 Okay? Not a hearing, but a meeting where in effect the
15 Corps, the Board, our staff, and the local sponsors
16 would go over for these folks why it is they are being
17 asked to remove these encroachments. And I'm just
18 wanting to be certain that in that meeting whatever
19 issues there are about how we handle appeals we
20 understand pretty clearly so we can explain that to
21 folks.

22 BOARD MEMBER BROWN: Well, again, I'll say
23 Mr. Chairman, if it does come to a hearing, then we
24 become administrative hearing officers up here and a
25 neutral party.

1 Which means then that part of our staff would
2 support a position and present the evidence while
3 another portion of our staff would be set aside to
4 assist us in evaluating the two parties' positions.

5 We just need to be thinking about that if
6 that's the direction we're headed here.

7 PRESIDENT CARTER: Yeah. I guess I kind of
8 seek some legal advice on this. I don't see the
9 difference between having a hearing here at the Board
10 like we were going to have today here on Item 8 and
11 staff's role in that and the applicants role in that
12 versus a property owner's role as essentially an
13 applicant and our staff's role in terms of representing
14 the Board's position on whether or not the encroachment
15 ought to be removed.

16 So I guess I need to understand if there is a
17 difference and why there is a difference between a
18 hearing that we would hear normally in a monthly Board
19 meeting versus a hearing that we would hear with regard
20 to these encroachments.

21 Is there a difference or -- Ginny, what?

22 DEPUTY ATTORNEY GENERAL CAHILL: You know, I
23 didn't come today prepared to address this issue.
24 There is a case currently pending before the California
25 Supreme Court on this very issue, and it's a little

1 unclear until that comes down what the requirements
2 are. I will look into it and work with staff to make
3 sure that we figure this out before we -- in time.

4 PRESIDENT CARTER: We probably need to -- it
5 make sense in any communication we have with the
6 property owners who we think have problems with
7 encroachments that we at least inform them of what
8 their rights are or tell them where they can find out
9 what their rights are. And then, before we have a
10 meeting with them in Stockton describing the problems
11 and whatnot, we know what our approach is going to be
12 fairly precisely.

13 BOARD MEMBER BROWN: Just a word of caution
14 there, Mr. Chairman, is that if it does become a highly
15 debatable issue then it may be important that the Board
16 remain as neutral as we can until we can hear evidence
17 from both parties and then make a decision based upon
18 the rules of evidence.

19 And it's not unusual for staff to be
20 bifurcated to where staff would pick up the issue on
21 one side and present evidence or testimony to that
22 effect while the property owners in this case would
23 present evidence to the contrary.

24 Then it becomes -- I suggest it becomes our
25 job then to evaluate the preponderance of evidence as

1 presented. So it kind of limits our participation on
2 meetings that might be set up prior to the hearing.
3 Otherwise you become a party.

4 PRESIDENT CARTER: Yes.

5 DEPUTY ATTORNEY GENERAL CAHILL: Good point.

6 PRESIDENT CARTER: Yes, I agree. Okay.

7 So this is something that I guess the
8 Executive Committee and staff is going to have to work
9 out the details between now and our next Board meeting,
10 and preferably now in the next communication that goes
11 out to the property owners.

12 So we will do that.

13 EXECUTIVE OFFICER PUNIA: Moving on to next
14 item. I am glad to report the Memorandum Of
15 Understanding has been negotiated with the DWR,
16 defining the role and responsibilities under the new,
17 recently passed, flood legislation.

18 And I want to commend the efforts our counsel,
19 Ginny Cahill, and the support from the Executive
20 Committee, specifically Vice-President Butch Hodgkins
21 and Ben Carter were very closely involved in this, and
22 we were successful in negotiating Memorandum Of
23 Understanding agreement which will be discussed to
24 today.

25 Based upon the recently passed legislation, we

1 are required to have a map of the Sacramento-San
2 Joaquin Drainage District. We issued that task to the
3 Department of Water Resources, Division of Engineering.
4 And I am glad to report that they are almost done, so
5 it's about 90 percent complete.

6 They reviewed the legislation which was
7 approved in 1911 when the Board was established, and
8 that legislation defined the boundary of the
9 Sacramento-San Joaquin Drainage District. So there was
10 no geo reference-type map which can precisely define
11 what are the boundary of the Sacramento-San Joaquin
12 Drainage District. So they are almost finished with
13 the map. Our plan is to put that map on the website so
14 that people can see whether they are within the
15 Sacramento-San Joaquin Drainage District or not.

16 Today, we had a meeting with the Southwestern
17 Division Commander, Brigadier General John McMahon.
18 Board President Ben Carter, Vice-President Butch
19 Hodgkins and Ginny Cahill and myself, we met the
20 general.

21 It was an informal meeting. We discussed
22 various issues related to Section 408, vegetation
23 policy, and the general was pretty open to hear our
24 concerns that how we can move forward in this
25 partnership fashioned to keep building projects.

1 Ben, do you to want elaborate any further on
2 this meeting today?

3 PRESIDENT CARTER: I thought it was -- the
4 purpose of the meeting was basically just to touch
5 base, and we -- last time we met, we agreed that we
6 would periodically touch base face-to-face and just try
7 and improve coordination between the Board and the
8 Corps.

9 The additional item that we did discuss is
10 trying to refine our support from the Corps, during
11 Board meetings in particular, to be sure that to the
12 extent it's possible that the appropriate Corps
13 resources are available during Board meetings to answer
14 any questions or issues that may come up.

15 So the commitment was to more proactively
16 review the agenda with the Corps representatives at the
17 district and try and anticipate any potential issues
18 that may come up and try and have them covered at the
19 Board meeting to the extent we could.

20 It was a very good meeting, very productive.

21 EXECUTIVE OFFICER PUNIA: Okay. Next
22 informational item is that the National Association of
23 Flood and Stormwater Management Association, NAFSMA, is
24 having their annual meeting in California, and they
25 have invited the US Army Corps of Engineers

1 Headquarters staff to participate.

2 Because the state budget is not passed yet, so
3 there is some difficulty for the State to participate
4 in this annual meeting. But we are trying to schedule
5 a meeting with the top US Army Corps of Engineers
6 official. President Ben Carter is taking the lead, so
7 that we may not be able to participate in the annual
8 NAFSMA meeting, but still we will be able to meet with
9 the US Army Corps of Engineers Headquarters staff.

10 Last meeting, Board Member Teri Rie requested
11 that I may provide an update on the Section 104
12 requests. There is a spreadsheet included in the
13 package. I will quickly walk through that spreadsheet,
14 giving you the status of the 104 requests.

15 The spreadsheet I provided you, it's a little
16 more than the Section 104. It includes the 408 and
17 gives the overall schedule and the plans, the project
18 which we are requesting the US Army Corps of Engineers
19 to approve.

20 If you can bring your attention to the credit
21 classification, it's the middle of the section of the
22 spreadsheet. It has a column under Section 104 and
23 then approval date. If you can focus your attention on
24 those two columns.

25 Bear River Setback, we got the approval of

1 that Section 104 credit request. The next one is
2 Feather River Repair, Segment 1. We obtained from the
3 US Army Corps of Engineers approval on August 7, '07.
4 Then feather River Repair, Segment 2. We requested the
5 request on June 2007, and it's under evaluation from
6 the US Army Corps of Engineers. We haven't heard back
7 that it's been approved.

8 Then Lower Feather River Setback at Star Bend.
9 We request Section 104 credit during February '08, and
10 it's again under evaluation by US Army Corps of
11 Engineers.

12 Now moving to the Natomas Project. Natomas
13 Cross Canal, Phase 1. We requested Section 104 Request
14 on January 7th, and it was approved on July 19, 2007.

15 Natomas Cross Canal Phase 2. We requested
16 Section 104 credit in January '08, and it's still being
17 evaluated by the US Army Corps of Engineers.

18 Sacramento River East Levee, Phase 1. We
19 requested Section 104 Request on January '08, and it's
20 being evaluated by the US Army Corps of Engineers.

21 So those are the Natomas Projects, Section 104
22 requests.

23 Now, I am moving to West Sacramento Project
24 listed at the bottom of the spreadsheet. We have
25 requested Section 104 credit for the I Street Bridge,

1 and that request was sent in April 2008, and it's being
2 evaluated by the US Army Corps of Engineers.

3 I think those are all the Section 104 requests
4 so far which either have been approved or being
5 evaluated by the US Army Corps of Engineers. And the
6 spreadsheet has other details about the Section 408
7 requests to the US Army Corps of Engineers.

8 PRESIDENT CARTER: This is very helpful, thank
9 you.

10 EXECUTIVE OFFICER PUNIA: You're welcome.

11 Board Member Teri Rie brought to our attention
12 the US Army Corps of Engineers Deep Ship Channel
13 Project. This is a navigational project that the Corps
14 is planning to dredge the Deep Ship Channel. And I
15 think her request was that we should stay engaged so
16 that we can provide our input.

17 Dan Fua from our staff will be involved in
18 this project and providing comments from time to time.
19 Dan, do you have anything else to add.

20 SUPERVISING ENGINEER FUA: No.

21 EXECUTIVE OFFICER PUNIA: Last Board meeting
22 Board Member Rose Marie requested that we should
23 coordinate with FEMA and invite them to give an
24 informal briefing on their Map Modernization Program.

25 I have contacted Kathy Schaefer of the FEMA,

1 and she was not available during the July meeting, but
2 she made a commitment that she will brief the Board
3 during the August meeting.

4 Just quickly, a quick update, the contracts we
5 are working on behalf of the Board. Lorraine
6 Pendlebury is working on an interagency agreement with
7 the Department of Justice so that we can continue to
8 receive services of our counsel, Ginny Cahill and Debra
9 Smith. That contract is underway, and we should get
10 that approved.

11 Then we have also started a contract to hire
12 the services of Dr. William Reckmeyer to facilitate the
13 California Levee Roundtable future meetings. So we are
14 working on it, and it's underway.

15 Then we are also trying to hire Mr. Patrick
16 Bell to assist us in developing a strategic plan for
17 the Central Valley Flood Protection Board.

18 And the Sacramento River Watershed Program
19 invited us to participate in their flood management
20 reception on Wednesday July 30th. Board Vice-President
21 Butch Hodgkins and I will be representing the Central
22 Valley Flood Protection Board in that.

23 Board Vice-President Butch Hodgkins suggested
24 that we should tour the Yolo Bypass, that we should
25 arrange a tour for the Board so that they have a chance

1 to see the Yolo Bypass. We have internally discussed,
2 and we will arrange a two-hour tour during the
3 September meeting.

4 And I'm thinking that, based upon today's
5 request from Board Member John Brown, that during the
6 August meeting we can schedule a tour of the Turlock
7 construction under way.

8 So my proposal is that the meeting -- August
9 meeting is on 15th. Maybe on the 14th afternoon we can
10 schedule a half-a-day tour to see the construction
11 underway for the Turlock project and then we will have
12 our regular meeting on the 15th.

13 PRESIDENT CARTER: So we'd have that meeting
14 potentially up in Yuba County?

15 EXECUTIVE OFFICER PUNIA: It's up to the
16 Board. My thinking is we will have the meeting right
17 here. The tour will be the day before on the 14th, a
18 half-a-day tour. So the Board Members can come half a
19 day on 14th and stay the night here, then participate
20 the meeting in Sacramento.

21 SECRETARY DOHERTY: That's the Yolo one.

22 EXECUTIVE OFFICER PUNIA: The Yolo one is in
23 September.

24 SECRETARY DOHERTY: September. Okay, gotcha.

25 EXECUTIVE OFFICER PUNIA: The August one, I'm

1 proposing, if it is okay with the Board, that we can
2 arrange a half-a-day tour on the 14th, afternoon, then
3 we will keep our meeting, regularly scheduled meeting,
4 right here on 15th.

5 I think those are the items I wanted to share
6 with the Board, and I will be glad to answer any
7 questions you have.

8 PRESIDENT CARTER: Just out of curiosity, Jay.
9 We had the discussion last month with regard to the
10 PL 84-99 Levee Rehabilitation Project within, what was
11 it, RD-2098. And this issue that the Board approved a
12 motion to approve subject to staff specifying the
13 species of willows being planted as on-site mitigation.

14 Has there been any action on that permit yet?
15 Do you know what the plan is?

16 EXECUTIVE OFFICER PUNIA: The Board direction,
17 I think there were two items. One request was that we
18 need to have an assurance agreement signed with the
19 local agencies before we can move on those projects.
20 That effort is underway, and the Board counsel Ginny
21 Cahill has negotiated the assurance agreements with the
22 local agencies. And these are being signed, as we
23 speak.

24 Some of the local agencies have signed off on
25 those agreements, but some districts have some

1 concerns. So Ginny and Scott Shapiro, representing
2 several of those districts, came up with the wording;
3 but some districts has still some concerns, so that
4 effort is underway.

5 And as far as a species, which willows will be
6 planted, Jim Sander is here, he's going to address that
7 concern when we have our item on PL 84-99 on the
8 agenda.

9 PRESIDENT CARTER: Okay. Thank you. Any
10 other questions for Mr. Punia? Comments? Okay.

11 EXECUTIVE OFFICER PUNIA: Thank you.

12 PRESIDENT CARTER: Thank you.

13 MR. QUALLEY: President Carter?

14 PRESIDENT CARTER: Mr. Qualley.

15 MR. QUALLEY: If I could just make a very
16 brief statement.

17 When -- at the time that Board Member Hodgkins
18 expressed appreciation to the Department for the work
19 on those agreements allowing advance so that the work
20 could proceed in the way it needed to, certainly on
21 behalf of the Department I'm happy to accept that
22 appreciation.

23 But I think it is important, and I wanted to
24 put it on the record, that I was part of a team of a
25 number of people that developed those. The real

1 creative force and the creative language and making
2 those things work was really Rod Mayer and Ward Tabor,
3 were the two primary architects of that, and I wanted
4 to make sure that they were recognized for that work.

5 PRESIDENT CARTER: Thank you. All right.

6 We're still a little bit ahead of schedule,
7 ladies and gentlemen, so what we will do is -- are
8 there any task leader reports that we can hear at this
9 point?

10 Mr. Hodgkins.

11 VICE-PRESIDENT HODGKINS: I have two.

12 I attended a Delta Programs Information
13 Workshop in Walnut Grove which was really to try and
14 help people in the Delta understand all of the
15 different Delta initiatives that are moving forward.

16 It was an interesting meeting because there
17 had been information released recently in connection
18 with either the Blue Ribbon Panel or the Habitat
19 Planning effort that had been interpreted by some
20 property owners as meaning that the land between the
21 east levee of the Yolo Bypass and the west levee of the
22 Sacramento River was all going to be converted to
23 habitat and floodway. And it was a bit of an
24 acrimonious meeting, but I think as it went along there
25 was more of a dialogue established.

1 But what it said to me is that we need to be
2 sure we understand what's coming out of these Delta
3 processes, and I don't have a good suggestion as to how
4 we do that. But because of the fact that people at the
5 bottom end of the bypass are also concerned about flood
6 control and what's coming out of the Delta, we need to
7 be aware of the fact that there are other things going
8 to on here that we don't know anything about.

9 The second thing I wanted to do was to briefly
10 report on the fact that there is a collaborative
11 process being funded by a combination of the Department
12 of Fish and Game and the Yolo Basin Foundation to
13 develop a management plan for the lower portion of the
14 Yolo Bypass.

15 That's part of the reason why I've asked that
16 we get out and get a tour of the bypass, because part
17 of what's happening is that two of the San Joaquin
18 Valley water interests are looking at -- have purchased
19 property in the bypass, and are proposing to grade that
20 property in a way that will lower it and in effect
21 convert that property into, I'll call it, tidal
22 habitat. This is land where during part of the tidal
23 cycle it would be under water, and during the remainder
24 of the tidal cycle the water would be moved off of it.

25 There are other proposals out there in other

1 pieces of the lower bypass for some sort of habitat or
2 restoration plan, and these are closely related to
3 those Delta initiatives that are moving forward.

4 The collaborative process, where the Board is
5 going to be participating through myself and Mr. Fua,
6 is going to try to develop an overall approach that
7 would make sure that everybody's plans have been
8 thought through in light of everybody else's concerns
9 and interest in the bypass.

10 And it's going to be interesting when that's
11 done in a collaborative process, and then in the end
12 they have to come to the Board and get a permit.

13 But I think the nature of the habitat, which
14 is very important to the water people because it takes
15 care of some of the mitigation for the smelt and for
16 other species, is such that we need to keep the Board
17 abreast of what's going on and make sure if it appears
18 at some point in time that there are proposals moving
19 forward that are not acceptable from the flood control
20 standpoint that we make that information available.

21 So Dan and I and Gary and Jay are going to
22 work with trying to keep DWR updated on the proposals
23 here so that there can be some thought given as to
24 their potential impact on the Central Valley Flood
25 Protection Plan and what is the State's position going

1 to be with respect to that plan and work in the bypass.

2 Can I answer any questions? That wasn't a
3 very good explanation, but there is a lot of stuff
4 going on, and the idea is can we all sit down and talk
5 out a way to meet everybody's needs here in the bypass.

6 SECRETARY DOHERTY: There is still farming
7 going on Yolo Bypass, correct?

8 VICE-PRESIDENT HODGKINS: There is, although
9 in the lower bypass there is mostly duck clubs. And
10 once you get below -- we call it the stairstep levees.
11 There was a set of levees that went across that
12 isolated Liberty Island during low flows. Well,
13 Liberty Island is under water now. The levees failed
14 in '97, and they have never been repaired.

15 And so there is not a lot of farming lost from
16 the stairstep down. The area that's proposed for
17 habitat, my understanding is the Metropolitan Water
18 District and the Westlands Water District already own
19 the property. So their proposal would involve at least
20 taking part of it out of that. But they own it, so I'm
21 not sure how we -- how that all fits together here.

22 SECRETARY DOHERTY: And in most duck clubs in
23 the southern part, are there clubhouses there? I've
24 been down there, but I don't recall seeing them.

25 VICE-PRESIDENT HODGKINS: There are. They're

1 typically on stilts, and I'm not sure whether you'd
2 call them permanent structures or not. That's simply
3 because they look like they could be washed away pretty
4 easily as you drive by them. There is no real fancy,
5 nice, duck clubhouses out in the bypass.

6 Thank you.

7 PRESIDENT CARTER: Okay. Any other task
8 leader reports? Any questions from Mr. Hodgkins?

9 As far as Executive Committee is concerned,
10 Mr. Punia covered most of the primary focal areas for
11 the Executive Committee, which had been the MOA with
12 DWR, the San Joaquin Valley encroachments situation
13 we're facing, and then relations with the Corps.
14 That's been the focus of our energies primarily. If
15 there are any others, then we'll --

16 SECRETARY DOHERTY: I did attend the FloodSAFE
17 Conference in, presentation in Chico. And then last
18 Monday, we did take some of the Yolo County supervisors
19 and some of the RCDs to observe the levees from Knights
20 Landing northward and on into the Sutter Bypass where I
21 didn't see any work being done on the old-growth area,
22 but I will go back and look at that.

23 But we wanted the people from Yolo County --
24 and they brought up the Yolo Bypass and how well they
25 felt it was being handled and wanted to know how they

1 would be affected if something happened to the river
2 above Yolo County and above Woodland.

3 We also pointed out the levees in some of the
4 districts up there have a lot of natural habitat,
5 whereas the opposite side of the river, they would
6 never have to perform mitigation because they are just
7 slicker than a whistle and are poster forms for the
8 levees being cleared. There is just nothing on them,
9 whereas just right across the way there is.

10 So it was very interesting, and the people
11 from Yolo County were interested. Mike Hardesty was
12 there from, I believe, the district down in the Yolo
13 Bypass. So I thought it was very interesting. They
14 were very appreciative. They hadn't seen a lot of this
15 area before, so anyway.

16 PRESIDENT CARTER: Okay. Any other comments?
17 We'll -- I think we'll table this item. We can revisit
18 it at the end of meeting should any other issues come
19 up that the Board Members want to comment towards the
20 end of the meeting. But for now, we'll table this Item
21 16.

22 On to our agenda Item 10, PL 84-99 Levee
23 Rehabilitation Project, Madera County. This is to
24 consider approval of Resolution 08-15, to adopt a
25 mitigated negative declaration, findings and mitigation

1 measures for the PL 84-99 Levee Rehabilitation Project
2 in the Lower San Joaquin Levee District, Chowchilla
3 Bypass Project, and to approve the Project Cooperation
4 Agreement between the US Army Corps of Engineers and
5 the Board.

6 PRESIDENT CARTER: Mr. Van Gilder. Good
7 morning.

8 MR. VAN GILDER: Good morning to the Board,
9 and good morning President Carter.

10 I'm here basically to make a presentation in
11 regards to the PL 84-99 Rehabilitation Program. In
12 particular, this is going to address the Lower San
13 Joaquin Levee District for potential and proposed
14 repairs, construction in August of 2008.

15 And the location for this site, as it shows on
16 the slide, is Madera County, southern Madera County.
17 I'll proceed through there.

18 My name is Jeff Van Gilder. I'm the project
19 manager for the -- basically, the San Joaquin Flood
20 Protection Project. And also assisting on the end of
21 this presentation, is Deborah Condon. She is our
22 Environmental Program Manager. And I will go through a
23 series of slides here and discuss and try to best
24 describe what project we have occurring here.

25 For members of the audience, this PL 84-99

1 Program is federal law that basically gives the US Army
2 Corps of Engineers the legal authority to supplement
3 local efforts in the repair of flood control projects.

4 This project is in relationship to the flood
5 events of 2005-2006 and for future repairs that would
6 hopefully improve the lower San Joaquin flood control
7 area. The Central Valley Flood Protection Board is the
8 local sponsor under this agreement.

9 Okay. Here what you're seeing in front of you
10 is a list of sites that DWR has actively integrated
11 with the Corps under this program. There are some
12 additional sites that are under reconsideration and are
13 not addressed in the total number of sites on this
14 slide. However, we still are working on several sites
15 within this project.

16 Okay. The lower San Joaquin project has some
17 problems. And the basic problems that we enter into
18 here with this particular group of levees is through
19 seepage and underseepage resulting in some form of
20 problems which would be piping, boils, and eventual
21 failure.

22 It is our intent to repair on this project,
23 for this particular portion of the project, a group of
24 reaches for a slurry wall and in three sites that will
25 be repaired with a landside seepage berm. And I will

1 go through those.

2 The three seepage berm repair sites are on the
3 right bank of the Chowchilla Bypass. The total footage
4 of these repairs, based on the Corps' criteria, is
5 180 feet.

6 Now, the slurry wall portion of this repair
7 is -- all of this is four different reaches; we've
8 broken it down into four separate reaches for
9 analyzation based on the Corps and DWR way to approve
10 the project based on betterment and other conditions on
11 the site.

12 And that slurry wall, right now, the total on
13 this reach is 14,770 feet. It may be subject to some
14 change based on actual field conditions created during
15 construction. And again, this is all on the left bank.

16 And the importance of the slurry wall in
17 particular is that it protects the incorporated town
18 and city of Firebaugh, Mendota, so this is actually a
19 very important repair for that section.

20 This slide here is the -- I don't have a red
21 pointer, so I will try and use this little arrow thing.
22 The reach sites on the left bank are here labeled as
23 Reach 1, 2, 3, and 4. Reaches 1 and 3 are incorporated
24 by the Corps. Reaches 2 and Reach 4 are DWR
25 responsibility portion of this project.

1 And then these three sites right here on the
2 right bank are the three seepage berm repair sites.

3 You see additional sites over to the upper
4 portion of your screen, and these sites are not
5 addressed in this particular round of repairs. They
6 are still awaiting further environmental concerns and
7 land and right-of-way issues that have yet to be
8 addressed.

9 Okay. These are typical sections of the
10 repairs that we have proposed for these sites. These
11 repairs were -- I should say these designs were
12 conducted and completed by DWR, URS, and the Corps.

13 And they're pretty basic. The slurry wall,
14 the proposed slurry wall, is meant to be constructed
15 two feet below original crown right now. We'd scrape
16 off two feet of the crown for work area to be able to
17 put the equipment on top of the levee crown. It's a
18 thin crown as it exists, and we need the additional
19 footage.

20 So what we will do is pull off the upper two
21 feet, excavate down to depths of around 25 feet, and
22 backfill with the slurry wall set in cement, that night
23 mix. And this will occur from, you know, we'll pick
24 the reaches out there as best as constructed by the
25 Corps.

1 Anyhow, by the time we get done, we'll have a
2 25-foot deep slurry wall below the crown. And then
3 we'll replace the crown and reamend the soils and
4 create a new conditioned top so that we won't have any
5 problems with surface slumping or anything like that,
6 and it will be a drivable surface.

7 And this project, here, the intent of the
8 slurry wall, for those who aren't real aware of it, is
9 to prevent -- it's to create a blocking path for the
10 underseepage problems that are there.

11 And it does two things. It either stops the
12 flow of seeping water, and the second, it increases the
13 seepage length and path and basically assists in
14 ensuring that there is not piping problems along this
15 reach.

16 SECRETARY DOHERTY: I notice -- pardon me. I
17 notice that you're going down 25 feet. Is that deep
18 enough?

19 MR. VAN GILDER: Yes. All the exit gradients
20 and all the designs through the Corps, it's all been
21 calculated. And we're actually probably 6 or 7 feet --
22 we've got a cushion of probably 6 or 7 feet that's
23 actually better. The channel itself is only between 12
24 and 15 feet deep, so there is actually plenty of --

25 SECRETARY DOHERTY: Shallow pan.

1 MR. VAN GILDER: Yeah. This is not like a
2 situation like in Natomas or something where we need a
3 60- or 70-foot-deep slurry wall.

4 SECRETARY DOHERTY: And how long does it take
5 that bentonite slurry to cure?

6 MR. VAN GILDER: It depends on how the mix is
7 put in. But typically, they can cure pretty quick
8 depending on the concentration of bentonite. But
9 they're going to be in there for a week or two, and
10 they're not going to top anything off until then. And
11 it will end up depending upon how the mixture is
12 actually set up out in the field, so.

13 SECRETARY DOHERTY: Thank you.

14 MR. VAN GILDER: But they won't move on until
15 it's cured. There won't be any patchwork on the top
16 until it is sufficiently taken care of.

17 BOARD MEMBER BROWN: How did you determine
18 where the slurry wall should go? Was it by the boils
19 or piping or the -- did you have piezometers?

20 MR. VAN GILDER: There were no piezometers out
21 there. Basically, this area has a long history of
22 seepage and boiling problems due to any series of flood
23 events, whether it be '97 or 2006.

24 Reggie Hill, the manager of the district, has
25 kept pertinent records through time, so we have a very

1 good mapped-out area of where these boils and where the
2 problem spots are at.

3 And we've gone and done emergency repairs in
4 the past along this stretch, but we came to the point
5 in time where we decided that DWR is always out there
6 with emergency crews every time there is a flood event.
7 And it has basically become problemsome and we would
8 like to correct that particular issue down there.

9 BOARD MEMBER BROWN: Well, this is a good
10 source of information, Reggie Hill.

11 MR. VAN GILDER: Yeah, he is. He is here
12 somewhere. Thanks, Reggie. And Reggie also provided
13 the cooperation agreement I have in place. He brought
14 it with him, so we're subject -- he's subject to
15 maintain this after we go in there and do these
16 repairs.

17 Anyhow, that's where the basis of information
18 is provided, so we have the historical background and
19 just the hands-on field monitoring that has occurred.

20 Mike Inamine is not -- he is in the audience.
21 Mike is the office chief, and over the years Mike
22 himself has personally spent many times out there
23 looking at these failures and modes of failure that
24 occur. So we have a good record.

25 Anyhow, back to proposed seepage berm. The

1 purpose of the seepage berm -- and this would have been
2 the ideal solution for all the reaches; this is what
3 the Corps would have preferred to do. However, due to
4 land and right-of-way concerns, the slurry wall ended
5 up being most viable objection for the left.

6 But for the right bank, we have easement about
7 100 feet of the toe of the existing levee, and that
8 allows us to be able to go in and put about a 50-foot
9 wide seepage berm on top.

10 The purpose of the seepage berm is two-fold.
11 It decreases the exit gradient. It adds ballast onto
12 the potential seepage path where water would mitigate,
13 potentially carrying sand, which is the real problem.

14 And then it is -- this particular seepage berm
15 has a drain blanket, and it actually has -- then it has
16 a ballast on top, and it's to be covered with soil so
17 it will look nice and friendly and the locals won't
18 remove the rock for other purposes.

19 And this particular repair, again, these are
20 proposed for three sites, Sites 8, 9, and 10 on the
21 right bank. Okay.

22 I have a couple of slides showing people in
23 general what this area looks like. This really is what
24 the site looks like, this is all year long, basically.

25 This is a picture -- actually, this is a view

1 to the north of the channel, and this is the left bank
2 of the Chowchilla Bypass. And actually, the water
3 channel, if there is ever really water in here, which
4 is very seldom, is way towards the center. So this
5 particular project will not even impact any of the
6 acting waterways in here as long as we maintain
7 ourselves out of the wet season. We will construct as
8 long as we can, this fall.

9 This is a picture of some of the temporary
10 repairs that were placed after the 2006 floods. And
11 these ones are also -- this is actually on the left
12 bank view to the south. And these were some of the --
13 this is geo-fabric, the place right here, and ballast
14 rock on top. These were just to help with seepage and
15 piping problems. At this point in time, Deborah will
16 come on here to address the environmental concerns.

17 MS. CONDON: Good morning members of the
18 Board, President Carter, and staff. I will be
19 addressing the environmental concerns of this project.

20 We work closely with our San Joaquin Field
21 Division who undertook extensive studies of the area.
22 And though there is a potential for quite a few other
23 species out there, kit fox and some of the kangaroo
24 rats, the only species that were really found were
25 Swainson's hawk nests.

1 There are very few trees in the areas, but
2 those that were there were -- seemed to be occupied by
3 the hawks.

4 And also there were elderberry shrubs near the
5 perimeter of the project. In both cases, we used
6 avoidance measures to reduce or limit any impact. The
7 Swainson's hawks will be fledged by the time the work
8 begins, so they will be no longer there. The
9 elderberry were well outside the footprint of the
10 project, so avoidance is the measure used.

11 The CEQA document was -- let's see, where is
12 the -- is it -- okay.

13 The Corps produced -- the DWR and the Corps
14 produced a EAIS, and the Corps circulated a FONSI, and
15 the State circulated a Mitigated Neg Dec for the 30
16 days. We received one comment, and it was from the
17 Native American Heritage Commission, and I believe you
18 have that comment in your package.

19 What they were concerned about was the records
20 search and field survey. The Corps of Engineers
21 undertook a complete field survey, records search, and
22 submitted their findings to the SHPO, the State
23 Historic Preservation Officer. They found no record of
24 any sites there or artifacts.

25 The other issue was the measures that we would

1 take if we discovered any such finds. And those are
2 addressed in both the Corps document and our Mitigated
3 Neg Dec, so we have addressed all the concerns from the
4 Native American Heritage Commission and that concluded
5 our CEQA review.

6 At this point, we're coming before the Board
7 to ask the Board to consider approval of Resolution No.
8 08-15, that:

9 Now let it therefore be resolved that
10 the Central Valley Flood Protection
11 Board, acting in its capacity as CEQA
12 Lead Agency, adopt the Mitigated
13 Negative Declaration findings and
14 mitigation measures for PL 84-99 Levee
15 Rehabilitation Projects on the Lower San
16 Joaquin Levee District and approve the
17 project and delegate to the Executive
18 Officer the authority to execute the
19 project cooperative agreements with the
20 US Army Corps of Engineers only upon
21 receipt of necessary signed local
22 assurance agreements from the
23 maintaining agencies. The Executive
24 Officers is also delegated the authority
25 to acquire property interests to

1 complete the project.

2 We have Pal Sandhu in the audience to also
3 answer any questions, if you have further questions,
4 the Levee Office Chief.

5 Are there any questions on the project?

6 DEPUTY ATTORNEY GENERAL CAHILL: President
7 Carter, if I could suggest one edit to the Mitigated
8 Negative Declaration, on page 3, under Findings of
9 Significance. There is an extra "not" in the first
10 sentence. And it should read:

11 No substantial evidence exists that the
12 proposed project would have a negative
13 or adverse effect on the environment.

14 So I would suggest that that change be made
15 and that when you adopt the Mitigated Neg Dec it be
16 with the understanding that that excess "not" has been
17 deleted.

18 PRESIDENT CARTER: Okay.

19 Also, I notice on the resolution that was in
20 our Board packet it says Resolution No. "08-13" instead
21 of "08-15." We just need to figure out what the right
22 number is there for that.

23 MR. VAN GILDER: 08-15.

24 PRESIDENT CARTER: 08-15 is the correct one?

25 SECRETARY DOHERTY: Yes. And you also say to

1 acquire property interests to complete the project. Do
2 you anticipate having to acquire property? Do they --
3 how much property?

4 MS. CONDON: Can I refer to Jeff Van Gilder?

5 MR. VAN GILDER: There is no intention to
6 acquire property for this project. We will utilize --

7 SECRETARY DOHERTY: But it is in the
8 resolution.

9 MS. CONDON: It is my understanding that
10 property interests include --

11 MR. VAN GILDER: All our property for this
12 project is within DWR easement for this particular
13 portion. DWR has existing rights in fee to all subject
14 properties for this project.

15 SECRETARY DOHERTY: So could we strike out:
16 To acquire property interests? Are there entry permits
17 necessary?

18 MR. SANDHU: Right, I am the Chief of legal
19 affairs Branch. The interests here are within the
20 reclamation district ownership, and DWR is using all
21 those rights. And right-of-way clearances require that
22 we have all the temporary entry permits and all the
23 easements for construction purposes.

24 It won't be any acquisition of property from
25 the local landowners. This is the arrangement between

1 the Reclamation District and the DWR.

2 SECRETARY DOHERTY: Thank you.

3 MR. VAN GILDER: Mr. Brown, I wanted to
4 address one other thing. You had asked questions in
5 regard to information we had acquired to make the
6 decision for these reaches.

7 I wanted to also add that we conducted an
8 extensive geo-exploration program through URS, and then
9 William Lettis & Associates did a geomorphic study to
10 help us determine channel migration. And so it's based
11 on historic record and findings from the engineering
12 data.

13 BOARD MEMBER BROWN: Thank you.

14 PRESIDENT CARTER: Just a -- Ginny has a point
15 of clarification. The Negative Declaration calls for
16 Jay to sign that. I assume that that's appropriate
17 given the Board approved the resolution and approved
18 the -- and makes the findings?

19 DEPUTY ATTORNEY GENERAL CAHILL: Yes. Once
20 the Board approves the resolution and approves the
21 Negative Declaration, then the Executive Officer can
22 sign it on your behalf. If you wanted to add that to
23 the resolution, you can do so. But it shouldn't be
24 necessary.

25 PRESIDENT CARTER: Okay. Mr. Hodgkins?

1 VICE-PRESIDENT HODGKINS: I have a question
2 for Deborah. Deborah, when I looked at your Negative
3 Dec and the Corps' Negative Dec, for some reason, one
4 difference sort of jumped out at me. The Corps'
5 Negative Dec says that you're going to spoil the first
6 ten feet of excavation for the slurry wall into the
7 channel. Is that correct?

8 MS. CONDON: The channel, the ordinary high-
9 water mark of the channel is quite a ways inside the
10 channel. So we will be between the levees, but we will
11 be outside of the area that would have environmental
12 impacts, which would be the ordinary high-water mark.

13 So there's a large -- the channel basically is
14 a very-wide channel with a smaller channel toward the
15 center. And so we will be spoiling on the waterside,
16 but it will be well out of any wetted channel at the
17 time of the construction. And also, the ordinary high-
18 water mark, it will be well outside of that.

19 So for that reason, it was not subject to
20 streambed alteration permits or a lot of the other
21 permits. And the Fish and Wildlife Service and the
22 NOAA Fisheries determined there was no adverse impact
23 whatsoever.

24 VICE-PRESIDENT HODGKINS: But this is a
25 question. In a flood, isn't there water up against the

1 levee?

2 MS. CONDON: Only in extreme flood situations
3 and not ordinarily or not in an ordinary year.

4 VICE-PRESIDENT HODGKINS: Is the velocity such
5 that this is going to be washed down and deposited in
6 the San Joaquin?

7 MS. CONDON: The spoils will not be left
8 there. They'll be removed.

9 The spoils are basically the top two feet of
10 the crown of the levee that has to be removed to allow
11 a platform for construction. And they will be, it is
12 my understanding, actually put back and compacted. And
13 we will not be leaving -- it's temporary spoilage. Is
14 that correct?

15 MR. VAN GILDER: Yes.

16 During construction as they progress down
17 through the slurry wall construction, the spoils that
18 will be temporarily placed on the waterside of the
19 existing levee will be reamended as the existing soil
20 crown and put back in place.

21 And then the slopes will be revegetated with
22 the native grasses. So those issues -- and we won't
23 work past -- we won't work into the flood season.

24 VICE-PRESIDENT HODGKINS: I understand that.
25 But what you're telling me is you are not leaving what

1 is roughly 15,000 yards of dirt in the floodway?

2 MR. VAN GILDER: No. The Corps construction
3 plans clearly exhibit for amended soil. So all the
4 spoils that will be placed in the waterside will be put
5 back onto the crown as amended crown cap.

6 VICE-PRESIDENT HODGKINS: Okay. Well, you've
7 got some here that is displaced by slurry. I just want
8 to make sure it is not being left in the channel.

9 MR. VAN GILDER: If there ends up being any
10 additional spoilage, there is a location on the
11 southern section within the District and DWR property
12 where we can spoil additional material if we have to.

13 VICE-PRESIDENT HODGKINS: Thank you.

14 MR. VAN GILDER: And it is a rather large
15 area.

16 VICE-PRESIDENT HODGKINS: Thank you.

17 PRESIDENT CARTER: Any other -- oh, Mr. Punia.

18 EXECUTIVE OFFICER PUNIA: I just want to make
19 a comment that at my previous job as the Chief of Flood
20 Operations, I had a few nervous nights due to the
21 seepage at this location, and I'm glad to see this
22 project being built.

23 And I want to -- with the help of Reggie Hill,
24 Steve Dawson, Mike Inamine, we were able to save the
25 levee from failure. We came pretty close to losing the

1 levee at this site.

2 PRESIDENT CARTER: Okay. Any other questions,
3 comments? Anything staff wishes to add?

4 EXECUTIVE OFFICER PUNIA: I want to let the
5 Board know that Jim Sander from the US Army Corps of
6 Engineers is here. Last time there were some questions
7 on the PL 84-99 regarding the vegetation. If the Board
8 chooses, then Jim will be able to address those
9 questions for the Board.

10 PRESIDENT CARTER: Does the Board have any
11 questions for Mr. Sander with regard to -- I didn't see
12 too much of an issue with this particular project. The
13 issue is with the project last month.

14 EXECUTIVE OFFICER PUNIA: That's correct.

15 PRESIDENT CARTER: So I don't know that it is
16 appropriate to ask Mr. Sander to come up at this point.
17 But at some point during the meeting, Mr. Sander, we
18 would like to discuss with you some Board concerns
19 regarding revegetation and rehabilitation.

20 Okay, what's the Board's pleasure here?

21 We will entertain a motion to approve
22 Resolution No. 08-15 which the Central Valley Flood
23 Protection Board, acting as CEQA Lead Agency, adopts
24 the Mitigated Negative Declarations, Findings, and
25 Mitigation Measures for PL 84-99 Levee Rehabilitation

1 Projects in the Lower San Joaquin Levee District. And
2 we'll consider adoption of the local -- or the Project
3 Cooperative Agreement between the Board and the Corps.

4 BOARD MEMBER BROWN: You want two resolutions
5 or one that -- you want them both together?

6 PRESIDENT CARTER: We could do them separately
7 or we could do the resolution and then the Project
8 Cooperative Agreement separately. It is your pleasure.

9 BOARD MEMBER BROWN: I move we adopt both of
10 them, Mr. Chairman.

11 PRESIDENT CARTER: Okay.

12 SECRETARY DOHERTY: And I second that.

13 PRESIDENT CARTER: Okay. With the suggested
14 changes per counsel on the Mitigated Negative Dec?

15 BOARD MEMBER BROWN: Yes.

16 PRESIDENT CARTER: Okay. Very good. Any
17 discussion? Comments?

18 Mr. Punia, would you call roll please.

19 EXECUTIVE OFFICER PUNIA: Board Member John
20 Brown.

21 BOARD MEMBER BROWN: Aye.

22 EXECUTIVE OFFICER PUNIA: Board Member Lady
23 Bug.

24 SECRETARY DOHERTY: Aye.

25 EXECUTIVE OFFICER PUNIA: Board Vice-President

1 Butch Hodgkins.

2 VICE-PRESIDENT HODGKINS: Aye.

3 EXECUTIVE OFFICER PUNIA: Board President Ben
4 Carter.

5 PRESIDENT CARTER: Aye.

6 And let the record reflect that Member Suarez
7 is absent for this vote, but the motion carries.

8 MS. CONDON: Thank you.

9 PRESIDENT CARTER: Thank you very much.

10 MR. VAN GILDER: Thank you very much.

11 PRESIDENT CARTER: Let's move on to Item 11,
12 AB 1147 regulations. This is background on how they
13 affect the Board. Mr. Parsons or -- I guess not
14 Mr. Parsons.

15 MS. WEGENER: Thank you for noticing that I'm
16 not Mr. Parsons. I'm Teri Wegener with the Department
17 of Water Resources, and I'm Chief of the Statewide
18 Flood Grants Branch.

19 SECRETARY DOHERTY: What was your name again;
20 I'm sorry?

21 MS. WEGENER: Teri Wegener.

22 SECRETARY DOHERTY: Thank you.

23 MS. WEGENER: And we were here last week -- or
24 last month -- and with a presentation about the AB 1147
25 regulations. You asked us to come back and talk a

1 little bit more about the AB 1147, the regulations, and
2 specifically what the Board's role is in the new
3 AB 1147 regulations.

4 So we're here to talk -- I would like to say
5 that we do have Rod Mayer in the audience here who has
6 been very involved in the program and is here and can
7 provide any other information. And I'd also like to
8 say that we'd like to talk mostly about the AB 1147
9 regulations but a little bit about the AB 1147 bill
10 itself.

11 In your package, we have proposed AB 1147
12 regulations. AB 1147 was passed and specifically asked
13 DWR to promulgate regulations for implementation of the
14 requirements of AB 1147, and we're in the process of
15 going through the administrative -- the Office of
16 Administrative Law to implement those regulations.

17 We're in the public comment period now. The
18 public comment period ends with a public hearing on
19 July 29th, and we would specifically request any
20 comments that you have so that we can address them and
21 as we go through the Office of Administrative Law
22 process.

23 To go through this presentation, I just wanted
24 to review specifically a little bit about
25 Board-sponsored projects and the State cost share for

1 Board-sponsored projects.

2 So this slide and chart shows federally
3 authorized projects. AB 1147 specifically relates to
4 federally authorized projects, so federally authorized
5 Board-sponsored projects.

6 There is an overall project cost. There is
7 the federal cost share. And then there is the
8 nonfederal cost share. Nonfederal cost share is then
9 broken down into a state component and a local
10 component.

11 Now the state and local components have
12 changed over time, and currently they are at
13 70 percent. If there is a Board-sponsored project, the
14 state pays 70 percent of it, and the local entity pays
15 30 percent of qualified costs.

16 What AB 1147 said is, well, instead of it
17 being 70 percent it's going to be a base 50 percent
18 plus an additional discretionary, for lack of a better
19 word, 20 percent. And we'll talk about how we get to
20 that extra 20 percent.

21 So from now on, what we're talking about is
22 not the overall project cost but we're just talking
23 about the state portion of that cost.

24 So one of things you had asked is what is the
25 Board's role, and we developed this slide as a way of

1 showing what it is that the Board is already doing for
2 Board-sponsored projects.

3 So if you look on the pre-AB 1147, the Board
4 does plenty through the DFM staff as representatives of
5 the Board. And you can see a whole list of things that
6 DFM does -- staff does on behalf of the Board.

7 What AB 1147 does is the Board -- DFM staff
8 will keep on doing those same things or -- on behalf of
9 the Board but in addition is required to submit a
10 report to the legis- -- or prepare a report to the
11 Legislature that the Board then forwards. And a
12 significant part of that has to do with determining
13 that cost-sharing component, that additional 20 percent
14 above the base 50 percent.

15 The report to the Legislature will include
16 several things, and I wanted to just talk them through
17 because most of these things are items that are done as
18 the normal course of business. They're done in any
19 project feasibility study and corresponding CEQA/NEQA
20 documentation and federal authorization or through
21 other required legislation.

22 So the report forwards to the Legislature a
23 floodplain management plan which most communities who
24 are participating in the FEMA program will have a
25 floodplain management plan, so we're just forwarding

1 that forward.

2 There is -- the report will talk about
3 environmental and recreational impacts, and of course
4 those are done as part of project formulation.

5 Hydraulic impacts also are done as part of
6 project formulation and authorization; however, the
7 wrinkle or the addition is that AB 1147 requests a
8 determination that hydraulic impacts have been
9 mitigated. So the work has all been done, but there's
10 specifically a determination that's requested by
11 AB 1147.

12 AB 1147 wanted to focus on multipurpose
13 objectives and get a little bit more emphasis on
14 multipurpose objectives, so there will be an evaluation
15 of the multiple objectives in a project.

16 Now those of course are done -- the real work
17 is done during project formulation and during the
18 development of the feasibility study and the project
19 authorization or the federal authorization.

20 However, that multi -- that extra attention to
21 what has been done for the multipurpose objectives
22 feeds directly into the state cost share percentage.

23 The local sponsor will prepare a cost-sharing
24 report, submit that to staff, staff will evaluate that,
25 determine whether they agree with the cost share

1 report, and then forward it to the Board so that the
2 Board can agree or not with staff's determination, and
3 then that will be forwarded then in this report to the
4 Legislature.

5 So back to the cost share. Cost share again
6 is a 50 percent baseline, and then there's this
7 additional 20 percent for satisfying multipurpose
8 objectives.

9 The multipurpose objectives are -- consist of
10 five categories. There's Open Space, Habitat,
11 Recreation, whether a project goes through an
12 impoverished area, and also whether a project goes
13 through state facilities, state facilities being
14 highways or state water project facilities.

15 So as we were trying to develop these
16 regulations and figure out well, gee, how are we going
17 to do this, we decided that we would develop -- instead
18 of a sliding scale, we would say well, there have to be
19 markers.

20 Either a project doesn't meet, for example, an
21 Open Space objective, or it does but it meets it not
22 all that much, so state cost share should be 5 percent.
23 If it definitely meets that objective, and it has lots
24 of open space, for example, then we'll provide a
25 10 percent state cost share.

1 And we said that it -- this 5 or 10 percent
2 can occur in any of the three objectives that we've
3 listed here: Open Space, Habitat, or Recreation
4 Contribution. And it could be just a 10 per cost
5 share. There's not that intermediate step of 5 percent
6 for if a state -- if a flood control project helps an
7 impoverished area or helps state facilities.

8 So this is a little bit convoluted, a little
9 bit complicated, and it will be even more complicated
10 as we get into the nitty gritty and the details of
11 future projects. But I wanted to give you a sense of
12 the different categories and how those different
13 categories will be determined.

14 We did put together this little example as a
15 way of following -- illustrating how the state cost
16 share could be determined.

17 As you can see, the local sponsor in this
18 particular hypothetical example has requested a
19 10 percent state cost share for -- in several
20 categories: Habitat, Open Space, Recreation,
21 Impoverished Area, but not in State Facilities.

22 When staff, in this hypothetical example, has
23 gone through and evaluated it, staff agreed that yeah,
24 Habitat, Open Space, and -- or Habitat and Impoverished
25 Areas qualify for 10 percent, but there wasn't that

1 much Open Space or Recreational objective met in this
2 particular flood control project, so instead of a
3 10 percent cost share it would just be a 5 percent cost
4 share.

5 We went through and totalled that up and came
6 up with that plus the extra 50 percent, coming up to
7 80 percent. Well, AB 1147 says that state can
8 participate only up to a 70 percent cost share, so
9 that's what our ceiling is.

10 Staff will prepare a report, send it to the
11 Board for your concurrence that in this particular
12 hypothetical project indeed the state should provide a
13 70 percent cost share.

14 So once again, we are at the point where we
15 have developed draft regulations. We are in the
16 process of going through the public comment period for
17 these draft regulations, and we would look to you for
18 any comments and any guidance in relation to the draft
19 regulations.

20 Staff work will be required to attend a site
21 tour which is a requirement of AB 1147, and it's
22 probably something that would be done anyhow during the
23 course of project formulation.

24 Staff work will be required to review the
25 sponsor's cost sharing report, evaluate the

1 contributions, and recommend a state cost share, staff
2 concurrence with the sponsor's cost share report -- or
3 maybe not concurrence.

4 And then staff work will be required to pull
5 together the report that goes to the Legislature with
6 Board sponsorship.

7 And it will be up to the Board to determine
8 whether you would like to actually see that report. I
9 would assume that you would, but that -- as projects
10 come forward, you can determine that.

11 And these again are -- as you can see in this
12 slide -- are the components at least that would be
13 involved in this report that goes forward to the
14 Legislature: The flood -- the certification that there
15 is a flood management plan, that environmental and
16 recreational impacts are met, that hydraulic impacts
17 have been mitigated, and that there's a determination
18 that hydraulic impacts have been mitigated since the
19 multipurpose objectives and the recommendation for
20 state cost share.

21 So we, again, would appreciate your comments,
22 and to remind you this public comment period lasts
23 until July 28 with, again, a hearing on July 29th where
24 written comments can also be submitted.

25 If you'd like extra information, we do have a

1 submissions website that's listed on this slide, or
2 also you can get to it through the FloodSAFE website.

3 So with that, I hope that's not too much
4 information. And do you have questions?

5 BOARD MEMBER BROWN: Mr. Chairman?

6 PRESIDENT CARTER: Mr. Brown.

7 BOARD MEMBER BROWN: Teri, I have some
8 suggestions for you in your multi objectives that I
9 didn't hear.

10 Of course, flood control is primary with us,
11 but groundwater recharge being one that you could
12 incorporate into it. And your Habitat, Open Space, you
13 covered pretty good.

14 But there is some potential water yield in
15 some of these joint projects that we've had like with
16 retention and detention reservoirs that can be
17 developed for soil stabilization practices,
18 particularly on range and open lands that are very
19 important.

20 The pasture and land management, again for
21 stabilization of the soils.

22 And other best management practices that might
23 be considered that typically comes out of the soil
24 conservation service programs, times gone by. Those
25 all can go into consideration, I think, for multi

1 objective projects.

2 There's been one that took place like that out
3 at the Kaweah Reservoir above Visalia not too many
4 years ago that they incorporated many of those
5 additional suggestions I just gave you. It was funded
6 by state facilities, state funding.

7 MS. WEGENER: Thank you. The way I understand
8 it, AB 1147 is very specific about the objectives that
9 we need to meet.

10 However, we could look to see if any of
11 these -- if the objectives that you just mentioned
12 could be viewed in the light of meeting the specific
13 AB 1147 objectives.

14 I don't know that we could add another
15 specific objective given that -- for a state cost
16 share -- without going back to the Legislature, given
17 that AB 1147 is very specific about the objectives.

18 BOARD MEMBER BROWN: Well, particularly the
19 soil stabilization practices where we don't have to
20 contend with the erosion and downstream siltation from
21 the flood control practices.

22 So those are suggestions to you.

23 MS. WEGENER: Thank you. And we would --
24 again, we will try to fold them in as much as possible
25 where they can be correlated to the objectives in

1 AB 1147. Thank you.

2 PRESIDENT CARTER: Any other questions for
3 Ms. Wegener?

4 VICE-PRESIDENT HODGKINS: Teri, I'm reading
5 Section 574 where we're talking about the contribution
6 of improved flood protection to impoverished areas.
7 And you did a great job -- or somebody did -- of
8 defining what an impoverished area is.

9 But they become eligible if they get a
10 10 percent increase in flood protection.

11 I wonder why it isn't eligibility tied to
12 either 100-year for an area of less than 10,000 people
13 and 200-year for an area of more than 10,000 people,
14 which is fundamentally what the Legislature is now
15 saying are the standards in this state?

16 That's a change maybe you'd want to consider.

17 A 10 percent increase in flood protection is
18 going from 25 years to 27 1/2 years. That doesn't seem
19 like that kind of an increase in flood protection
20 justifies an additional state cost share.

21 MS. WEGENER: Thank you.

22 PRESIDENT CARTER: Any other questions or
23 comments?

24 DEPUTY ATTORNEY GENERAL CAHILL: President
25 Carter, could I ask a question?

1 PRESIDENT CARTER: Absolutely.

2 DEPUTY ATTORNEY GENERAL CAHILL: On Section
3 574(a), it says that the way the staff will evaluate
4 these improvements is that there will be a:

5 Department or Board team comprised of at
6 least three technical experts in the
7 area of flood management and Habitat,
8 Open Space and/or Recreation.

9 Can you foresee the situation where it might
10 be difficult to actually convene these teams in each
11 case? Are you tying your hands a bit too much by
12 requiring an actual panel as opposed to just letting
13 staff contact people in those various areas?

14 MS. WEGENER: That is a very good comment.
15 Thank you. I wasn't -- Rod, do you want to chime in at
16 all in terms of the thought process through that?

17 I think your comment is well taken.

18 MR. MAYER: Good morning. Rod Mayer,
19 Assistant Deputy Director for FloodSAFE, California.

20 Actually, that panel was an idea presented by
21 the prior Board, actually two prior Boards, when we
22 were working on earlier versions of these regulations.
23 And they realized that some of these decisions at the
24 end of the day, as objective as we're trying to make
25 the process, will be somewhat subjective; and a proper

1 way to deal with the subjectivity is to have a panel
2 that's experienced in dealing with these issues and
3 have the panel make the reviews and make the decisions.

4 So it's for that reason that we have it in
5 there. I don't see a problem with it. It's actually
6 fairly common in DWR to have panels convened to make
7 decisions on grant proposals.

8 DEPUTY ATTORNEY GENERAL CAHILL: And are you
9 foreseeing these panels being made up of DWR employees,
10 or are you picturing outside experts?

11 MR. MAYER: No. I'm thinking DWR employees or
12 possibly -- well, I think it says DWR or Board.

13 Sometimes we'll bring in other agencies like
14 Department of Fish and Game employees, for instance, if
15 habitat issues are important considerations for what
16 they happen to be looking at the time.

17 DEPUTY ATTORNEY GENERAL CAHILL: And it's your
18 understanding that the Division of Flood Management
19 staff within DWR will continue to provide these
20 services to the Board? It won't be -- these won't be
21 new functions for the Board's direct staff?

22 MR. MAYER: These would be new functions that
23 DWR staff who provide support to the Board will be
24 taking on.

25 We don't consider them major new workloads.

1 But from time to time, we would have these staff
2 preparing reports for the Legislature which they have
3 never done before. So that will be the additional work
4 in addition to the panel reviews.

5 DEPUTY ATTORNEY GENERAL CAHILL: Thank you.

6 VICE-PRESIDENT HODGKINS: Rod, it has to go to
7 the Legislature, and they have to approve it?

8 MR. MAYER: Well, I think what's envisioned in
9 AB 1147 is that the report goes to the Legislature
10 after the project has been federally authorized, and
11 the report to the Legislature has a number of findings
12 and a recommendation regarding what the state cost
13 share should be for the nonfederal portion. Then the
14 Legislature would authorize the project and specify the
15 cost sharing for the project.

16 VICE-PRESIDENT HODGKINS: Okay. I see.

17 MR. MAYER: I don't think there is anything
18 that prevents the Legislature from acting before the
19 report gets there, if they want to. But I think that's
20 the plan: Get the report there so they can authorize
21 the project after they considered the report.

22 VICE-PRESIDENT HODGKINS: Okay.

23 BOARD MEMBER BROWN: Mr. Chairman, I'm
24 concerned with how Teri suggested they may be hampered
25 by how the legislation is written that may preclude

1 some of these what I would consider as very basic multi
2 benefits.

3 It seems to me like this is an opportunity to
4 include some of these other issues that have been
5 bypassed, at least in the presentation.

6 Soil stabilization practices, as an example,
7 for helping us in flood control. Soil stabilization
8 within the ditches and fields and the runoff, and any
9 groundwater recharge that could be developed from
10 projects.

11 So those are basic issues, and I would hope
12 that they would get full consideration.

13 MR. MAYER: Perhaps I can respond to that.

14 PRESIDENT CARTER: Please do.

15 MR. MAYER: These are federal projects that
16 AB 1147 applies to. When we are formulating federal
17 projects, there is a federal agency actually in the
18 lead. Typically, it's the Corps of Engineers, although
19 it could be the NRCS as well. NRCS is very well-versed
20 in many of those topics you just mentioned, and the
21 Corps is as well.

22 All of those can be considered as alternatives
23 in the project and incorporated in the project and cost
24 shared in the project.

25 BOARD MEMBER BROWN: That was the answer I was

1 hoping for.

2 MR. MAYER: And typically the Corps of
3 Engineers or NRCS would pay most of those costs.

4 And what we're talking about is of the
5 nonfederal portion how we split out the cost. And we
6 are constrained. I agree with Terri's assessment; we
7 are constrained to the three objectives with respect to
8 environment: Open space, Habitat, and Recreation.
9 Those are the three we can consider for increasing the
10 state cost share.

11 I think it will be hard to incorporate range
12 land management, for instance, into any of those. But
13 that doesn't mean we wouldn't be cost-sharing them. I
14 think we typically would, 50 percent. And the Corps
15 would be even paying more than that, so they can be
16 included in the project.

17 BOARD MEMBER BROWN: Okay.

18 PRESIDENT CARTER: Actually, doesn't Section
19 574(d)(2) under the Open Space objectives, it says:

20 A significant contribution for the Open
21 Space objective requires that at least
22 5 percent of the project's estimated
23 nonfederal capital costs are contributed
24 towards the acquisition and preservation
25 of agriculture or other undeveloped

1 lands that provide for the conveyance
2 and/or storage of flood waters,
3 groundwater recharge, recreational or
4 wildlife habitat use. Such lands may be
5 acquired in fee or form.

6 So there is -- the way I'm reading that,
7 there's some significant flexibility there in terms of
8 how you implement the guidance.

9 MR. MAYER: I think there is. So I didn't
10 want to give the impression there is no room
11 whatsoever.

12 But it is focused on Open Space, Recreation,
13 and Habitat in the law. And to the extent that there
14 is some flexibility in the law, we can incorporate
15 that.

16 When it comes to range land management, for
17 instance, in the upper watershed, I'm not so sure that
18 that's going to fit so well into any of those.

19 PRESIDENT CARTER: That has to do with
20 preservation of agriculture --

21 BOARD MEMBER BROWN: And habitat too.

22 PRESIDENT CARTER: And habitat.

23 MR. MAYER: Well, I realize that.

24 BOARD MEMBER SUAREZ: The definition of Open
25 Space applies to another Code section, which I don't

1 know what it is, but maybe that -- that's maybe what
2 you're thinking. That's what's limiting that, that
3 there's a definition that applies to a Code section.

4 MR. MAYER: Right.

5 PRESIDENT CARTER: I think there's a fair
6 amount of flexibility in how it's implemented and how
7 it's interpreted that's at the discretion of the
8 committee.

9 MR. MAYER: We will -- as Teri said, we will
10 look at that closely and do what we can to incorporate
11 such practices and -- provided it's consistent with the
12 law.

13 BOARD MEMBER BROWN: Good.

14 PRESIDENT CARTER: Okay. Any other questions
15 for Mr. Mayer or Ms. Wegener? Great. Do you have --
16 Ms. Wegener, did you have anything else to add?

17 MS. WEGENER: No.

18 PRESIDENT CARTER: Okay. Mr. Shapiro, did you
19 want to comment on this item?

20 MR. SHAPIRO: Good morning, Board Members,
21 Scott Shapiro. As I think you know by now, I'm general
22 counsel or special counsel for a number of agencies in
23 the Central Valley. Those agencies are all commenting
24 on the regulations through the normal public process.

25 And I have noted, and they have all noted, the

1 tremendous amount of effort that DWR staff has put into
2 this in trying to put forward a very sensible plan and
3 put some meat on the very raw bones that the
4 Legislature created with its not-very-detailed
5 explanation of what it was looking for.

6 I would, however, add one note of caution.
7 And I think it's a note of caution which actually
8 creates an opportunity for the Board.

9 It's my belief, and that of many of the
10 agencies that I work with, that there is one flaw in
11 the proposed regulations which is potentially
12 substantial enough to require DWR to reconsider and
13 perhaps put out for comment a second time revised
14 regulations.

15 And that is that 1147 specifically provides
16 that Department or Board may grant this 20 percent
17 kicker for any of the five things. And it actually
18 says up to 20 percent for any of the five things.

19 It's my belief that, properly interpreted,
20 that means that it is possible that doing one of the
21 five things could get you up to 20 percent. So there
22 is a scenario where you might have so much open space
23 that, having satisfied just that one of the five
24 criteria, you might get a 20 percent kicker.

25 Unfortunately, the draft regulations in their

1 form never allow you to get more than 10 percent of a
2 kicker by achieving any one of the five criteria.

3 Indeed, the only away you can get to
4 20 percent is by achieving two, if you're talking about
5 Impoverished Area or State Facilities at their
6 10 percent, or Open Space, Habitat, or Recreation at
7 their maximum of 10 percent.

8 And it's even possible, depending upon how it
9 was designed, that you might have to have four to get
10 to 20 percent, two 5s -- well, I guess that math is
11 wrong. You might need four, three 5s and a 10.

12 The point I'm raising is: We provided this
13 comment, and it's our hope that Department of Water
14 Resources will reevaluate this and revise the draft
15 regulations and come out in draft again.

16 And if the Department does so, it's my
17 encouragement to the Board that you have your staff
18 involved in any revisions to these regulations.

19 While they are Department of Water Resources
20 regulations, they impose mandatory duties upon the
21 Board and its staff. They set procedure. They set the
22 criteria under which you'll operate. You have the
23 potential to make recommendations under these criteria
24 to the Legislature, and it seems that your staff's
25 involvement in preparing any revisions would be

1 appropriate.

2 Thank you for the time.

3 PRESIDENT CARTER: Thank you, Mr. Shapiro.

4 Any questions?

5 BOARD MEMBER BROWN: No, but I think

6 Mr. Shapiro's comments are good and timely, though.

7 I'd like to see our staff participate and keep us

8 informed on this. This is obviously a matter of great

9 interest to this Board, so.

10 PRESIDENT CARTER: Does the Board want to

11 provide any direction for staff in terms of commenting

12 on behalf of the Board formally before the end of the

13 comment period?

14 VICE-PRESIDENT HODGKINS: I myself was

15 thinking of commenting as an individual. I assume

16 there would be no problem with doing that.

17 PRESIDENT CARTER: I don't believe there is.

18 SECRETARY DOHERTY: But it would be nice as a

19 Board to also comment and use his comments as the basis

20 for directions.

21 BOARD MEMBER BROWN: Perhaps Board Member

22 Hodgkins would serve as a liaison. I don't see any

23 conflict --

24 SECRETARY DOHERTY: That would be nice.

25 BOARD MEMBER BROWN: -- with him doing that.

1 He certainly is qualified.

2 PRESIDENT CARTER: We could also ask the staff
3 to pull together a letter to be sent to DWR based on
4 the transcript from today's meeting in terms of the
5 feedback and just formally express the thoughts that
6 the members have at this point.

7 VICE-PRESIDENT HODGKINS: That's fine. I
8 mean -- I think the Board's staff ought to do that.

9 BOARD MEMBER BROWN: I'll change that
10 recommendation, Mr. Chairman. As much as I would like
11 to utilize Mr. Hodgkins' experiences on this. But
12 we'll keep him as a Board Member, and perhaps staff
13 could handle that.

14 VICE-PRESIDENT HODGKINS: I'm sparing you all
15 of my detailed comment, so be thankful.

16 PRESIDENT CARTER: So if it pleases the Board,
17 then, we'd ask staff to pull together a draft letter
18 for either Mr. Punia's signature or my signature to DWR
19 essentially compiling the comments the Board had today.

20 SECRETARY DOHERTY: Correct.

21 BOARD MEMBER BROWN: Yes.

22 PRESIDENT CARTER: Okay. We'll do it. Do we
23 need a motion to that effect?

24 BOARD MEMBER BROWN: I don't think so.

25 PRESIDENT CARTER: Can we just direct staff to

1 do that?

2 BOARD MEMBER BROWN: Yes, sir.

3 PRESIDENT CARTER: Very good. So we want to
4 do that by the end of -- or before the end of the
5 comment period which is next week, is it? Or ten days?
6 Within the next ten days.

7 Thank you. Very good. We are -- I guess the
8 agenda says we'll break for lunch. It is noon. If we
9 could go ahead and do that.

10 I would like to touch bases with Mr. Winkler
11 during the lunch break if he's still in the audience.
12 Very good. So we will recess for one hour and
13 reconvene the meeting to continue with our agenda.

14 (Lunch recess)

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1 AFTERNOON SESSION

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3 PRESIDENT CARTER: Good afternoon, ladies and
4 gentlemen. Welcome back to the Central Valley Flood
5 Protection Board meeting for July 18th.

6 As you recall, we had finished up Item 11
7 prior to lunch. And we're right on schedule for Item
8 12, Section 408, Memorandum of Understanding, delegate
9 authority to the Board President to execute a
10 Memorandum of Understanding to the US Army Corps of
11 Engineers.

12 This one, as you recall, we had discussed
13 during agenda approval that we wanted to leave this as
14 an action item, but there was a request by Member Rie
15 to hold off making any decisions on this or taking any
16 action on this item pending further discussions with
17 the Corps.

18 So it's the Board's pleasure. After the
19 discussion, after the presentation, if the Board
20 chooses to take action on it, it may. Just keep in
21 mind that Member Rie, who has been actively involved in
22 this, has requested that we perhaps wait for another
23 meeting to take action.

24 So with that, Mr. Tabor, good afternoon.
25 Welcome.

1 MR. TABOR: Good afternoon, President Carter,
2 Members of the Board. It is a pleasure to be here.
3 Ward Tabor, for the Department of Water Resources.

4 As Board knows, Section 408 has become a
5 matter of discussion for your Board and for many
6 others, especially in light of some of the early
7 implementation projects that the Department has been
8 funding under this new bond program.

9 And the Board has been involved, of course,
10 because as the nonfederal sponsor for much of the
11 Central Valley, it's been the one that has to formally
12 request the Section 408 approval from the US Army Corps
13 of Engineers.

14 And because of some of the issues that have
15 arisen through some of these pending Section 408
16 applications, the Board itself convened a task force on
17 this issue including representatives from the US Army
18 Corps of Engineers at Headquarters Division and locally
19 here in Sacramento.

20 That task force was also attended by obviously
21 the Board -- several Board Members, Board staff, DWR
22 representatives, as well as number of representatives
23 from the local communities who are trying to pursue
24 these Early Implementation Projects.

25 As a result of these task force meetings, one

1 of the first things that was being developed was a
2 framework document. And that framework document was
3 looking at really the flood issues that are -- we are
4 facing throughout the Central Valley, and we were
5 trying to set the stage for what we anticipated as
6 moving forward and needing to go forward under Section
7 408.

8 Now, the focus of this MOU that is before you
9 today is to try to define a process that the state, the
10 locals, and the Corps of Engineers will use as we try
11 to pursue some of these Early Implementation Projects
12 that are going to take place up before the Board
13 approves the Central Valley Flood Protection Plan.

14 So this MOU is meant to kind of create an
15 interim set of procedures, if you will, that will guide
16 us all and hopefully be able to move these Section 408
17 processes along smoothly.

18 Now, the MOU that you have before you is set
19 up as an agreement between the Board and the Corps and
20 DWR, but the locals have been very actively
21 participating in the development of the MOU before you.
22 And because of some of the dynamics of the task force,
23 it was suggested that maybe an MOU would be a way to
24 kind of characterize how we're going to move forward.

25 So a drafting committee made up of myself and

1 Annette Kuz from the Corps Division Office and Scott
2 Shapiro, who you know well, we took it upon ourselves
3 to see if we couldn't make some progress in putting
4 down on paper some of these principles and procedures
5 that we can agree to as to how Section 408 should move
6 forward.

7 And so that's what we have in the MOU before
8 you. I'm sure you've all had some opportunity take a
9 look at it, but I just want to touch upon some of the
10 key provisions in this MOU.

11 Some people don't like recital clauses. I
12 like them because it kind of lays out the historical
13 perspective as to why we are trying to agree to
14 something. And so you'll see references to our
15 understanding of the consequences of levee failure from
16 Hurricane Katrina and the current midwest flooding
17 that's been going on this summer.

18 We identify in the second recital clause this
19 process that we are all involved with in terms of
20 putting together a Central Valley Flood Protection
21 Plan, both the Department's role as well as Board's
22 role, that is going to essentially help us look to the
23 future for how we're going to make improvements.

24 We recite the bond measures that passed that
25 are provided in the funding for these Early

1 Implementation Projects. And then of course we believe
2 at DWR, and I believe the Board shares this, is that
3 this Central Valley Flood Protection Plan is really
4 only going to be successful as a tool if the Corps of
5 Engineers is involved in the process. So we're taking
6 a number of steps to make sure that they are as part of
7 the process.

8 Now historically the Corps looked at most
9 modifications to the flood control system under its
10 authority that's in the federal regulations, 208.10.
11 And as a result of the River Islands project and some
12 of the other Early Implementation Programs, the Corps
13 is focused on 408 as a tool.

14 And if you read 408, 408 really says if there
15 is any modification to the authorized flood control
16 project, you need to get the approval of the Corps of
17 Engineers. Now, some of those approvals can take place
18 under 201.10. Others need to go through a more
19 complete process of 408.

20 So I've kind of outlined what the purpose of
21 the agreement is, and the purpose is kind of
22 recharacterized in the last recital clause as well as
23 in the first paragraph of the agreement on page 3 where
24 we specifically say the purpose is to outline an
25 approach that is going to work for the Corps, the State

1 and local flood agencies in terms of going through the
2 Section 408 process.

3 And we refer to the framework document here.
4 It is incorporated by reference, but it's not
5 incorporated as something that everybody has agreed to
6 because we know it is a very lengthy document, probably
7 in excess of 100 pages.

8 We don't want to negotiate every page of that
9 framework document, but everybody did recognize that
10 there was a value in attaching it as the record of
11 where the State is coming from in terms of the overall
12 approach to how we're going to make progress in the
13 Central Valley.

14 You see -- and there's really kind of two
15 categories of Early Implementation Projects that this
16 MOU is intended to cover. We have the Early
17 Implementation Projects that are being funded by the
18 State through Prop 1E and Prop 84, then you have other
19 Early Implementation Projects that are not receiving,
20 at this time, State funding.

21 So there is going to be more than one kind of
22 a 408 application moving forward. But this Board is
23 going to have to look at all of them, and certainly the
24 Corps of Engineers is going to have to look at all of
25 those; and so we have drafted this MOU to cover not

1 only the projects that DWR is proposing to fund, but
2 all Early Implementation Projects that move forward.

3 And in Paragraph 4, you see kind of the
4 dichotomy between the types of things that need to be
5 approved through 408 versus those that might get
6 approved through 208.10. And we have a listing of some
7 of the kinds of things that the Corps believes are
8 appropriate under 208.10, and that puts everything else
9 into the 408 category.

10 Paragraph 5 refers to a matrix. And I'm not
11 sure if the matrix was provided as part of your
12 package. I think we have -- Eric, do we have matrices
13 available?

14 EXECUTIVE OFFICER PUNIA: It has been
15 provided. It's in the Board Members' package.

16 MR. TABOR: And the matrix was intended to
17 provide factual information about the early
18 implementation projects that we are aware of. Because
19 one of the Corps concerns was we're not sure what all
20 these projects are, and we concerned from a programatic
21 and holistic perspective how many of these 408s are
22 coming at us.

23 So the matrix was intended to identify these
24 projects and identify where they were in the process.
25 So you have that in front of you, and we can get into

1 detail on that if you like.

2 Paragraph 6 you can see is clearly one of the
3 still-moving parts in this MOU. And you can see in the
4 notation that we're still working on the specific
5 language.

6 And this deals with the issue of how are we
7 going to address the need for hydraulic analysis, both
8 project specific as well as cumulatively, for these
9 Early Implementation Projects; that the State has
10 focused on one approach, the so-called deterministic
11 approach, and the Corps has focused on a probabilistic
12 approach.

13 And there has been a lot of good discussion
14 between the Corps and the State and the locals on how
15 to best approach this analysis of hydraulic impacts.

16 And so this -- the language you see in
17 Paragraph 6 is likely to change somewhat, but basically
18 we're going to agree to probably whatever the Corps
19 insists that they need in order to move forward because
20 they're the ones that hold the keys to the 408 door.

21 Paragraph 7 is a beginning, an effort to lay
22 out the process that we would hope the Corps would use
23 in processing 408 applications. So it just kind of
24 deals with the specific steps of filing the application
25 and giving notice up to Division and Corps

1 Headquarters, going through whatever environmental
2 analysis the Corps deems necessary and appropriate to
3 make sure that the hydraulic impacts, both project
4 specific and cumulative, are being addressed, and that
5 any other issues that we need to take place are being
6 analyzed.

7 We've also put in a provision here for peer
8 review when there's a project that's going to involve
9 over \$5 million in State funding so that we get the
10 expertise of outside experts as well on what those
11 hydraulic impacts and how you might deal with them may
12 be as well other technical issues.

13 Paragraph 8 kind of capsulizes the Corps'
14 commitment for moving forward, and that's obviously to
15 continue to work closely with the State and the locals
16 in looking at these 408s and to try to provide as much
17 information back and forth so that the process can move
18 forward as seamlessly as it may. And you see that we
19 are going to be, as always, working together.

20 Now, one of the issues is in paragraph 9. And
21 the -- because 408 is -- well, it has been on the books
22 for a while. It is a relatively new tool for the Corps
23 to use for approving alterations. And as such, it's
24 the subject of pending national guidance. And this
25 national guidance takes time because of the need for

1 thorough review.

2 And we know that that national guidance may
3 conflict with what this MOU has in it. So we're trying
4 to provide for a mechanism for how that national
5 guidance may affect what we try to agree to through
6 this MOU. And it's meant to just provide a way to be
7 able to move forward even in light of national
8 guidance.

9 But obviously, if there is some new
10 requirements that the Corps believes they have to
11 pursue, either because of a statutory duty or a
12 regulatory obligation, then they are going to do what
13 they feel they need to do.

14 So that's my quick running through of the
15 agreement. You can see that it's set up to be signed
16 by the Division Commander General McMahon as well as
17 Director Lester Snow as well as the Board President.

18 I'd be happy to answer any questions about
19 this, but I know that there are people from the Corps
20 here who can speak directly to what the Corps'
21 remaining issues may be. But I'm available for any
22 discussion as well.

23 So at this, maybe I'll -- unless there are any
24 questions from the Board on what I discussed, I think
25 we could perhaps turn it over to members of the Corps

1 or from the Board -- from the task force who
2 participated in the process.

3 VICE-PRESIDENT HODGKINS: Well --

4 PRESIDENT CARTER: Mr. Hodgkins, go ahead.

5 VICE-PRESIDENT HODGKINS: I think that Ward
6 has done, actually, a very good job explaining this. I
7 have a little simpler explanation.

8 Fundamentally, I think the document says we
9 need to start working with the Corps early on any of
10 these projects so that they can help us identify the
11 information that they're going to need in order to make
12 a 408 decision.

13 And then it goes on to say, once they have all
14 that information -- and I think it's important to
15 understand that that information may include a NEPA
16 document, something under the Endangered Species Act,
17 Historic Preservation Act, and Clean Water Act, all of
18 those have to be addressed before the Corps can make a
19 decision, but that they will make the decision within
20 60 days once they have that information.

21 I think as Ward said, the big outstanding
22 issue -- not issue, but place where we haven't yet
23 reached agreement -- is on how we're going to do the
24 hydraulic analysis.

25 Where the Corps' method, while academically is

1 certainly a superior method to the more common Manual
2 17 B method, it can make huge differences in terms of
3 your conclusions when you use it and don't totally, you
4 know, understand it or agree on the basic assumptions
5 that go into it. So that's a huge issue.

6 I think the Corps has worked with us, with the
7 task force, very well and in good faith. And I think
8 it's important to recognize that when we started this
9 408 task force we and the Corps were having a lot of
10 trouble figuring out what you did when a project looked
11 like it was going to trigger the need for a 408
12 decision.

13 I think we all have, as these have been dealt
14 with on a case-by-case basis, we all sort of know more
15 about what we need to do. A lot of that comes from our
16 discussions on task force. And sort of the bottom line
17 is the Corps, so far on 408 decisions, has moved
18 forward and delivered decisions in what I would have to
19 say is a timely manner, and we seem to be working
20 together.

21 But I think we need this MOU, the framework
22 document, and agreement on the hydraulic analysis not
23 only for ourselves, the Corps, DWR, and the Rec Board,
24 but for the local sponsors who may be starting to think
25 about a project on their own and need to understand

1 that this is a big deal that needs to be discussed
2 early on with the Corps and the State so we move it
3 forward in a way where when the time comes to make the
4 decision the information that's necessary is there.

5 I don't think we have to approve this today.
6 And in a way, I'm going to ask Clark to get up here and
7 tell us where we may not yet be totally on the same
8 page. But it may make sense to wait until we are on
9 the same page before we go forward and execute this.

10 So Clark, before I turn this over to you, Jay,
11 did I miss anything?

12 EXECUTIVE OFFICER PUNIA: I think that covers
13 the overall historic perspective on this task force.

14 I just want to add that, for the sake of the
15 Board Members, that until we have the plan, the Corps
16 asked that we provide them the best information that
17 which project we will be bringing to the Corps for a
18 408 approval. So this framework document and the
19 spreadsheet clearly explains to the Corps which project
20 we will be bringing to the Corps until we have the plan
21 established by 2012.

22 So that is the overall intent that we keep the
23 process going until we have the plan, so we are working
24 with the Corps aggressively so that we can reach this
25 understanding that the 408 process can move forward.

1 PRESIDENT CARTER: Good afternoon, Mr.
2 Frentzen.

3 MR. FRENTZEN: Thank you, President Carter,
4 Members of the Board and staff.

5 I think Mr. Tabor has done a good job of
6 explaining in a summary fashion what we have done, how
7 far we have moved forward with the MOU. And
8 Vice-President Hodgkins has also done a good job of
9 explaining from I'd say a 20,000 foot level where we've
10 been, where we're trying to go.

11 The major sticking point, as Vice-President
12 Hodgkins has pointed out, has been how we characterize
13 the changes in the hydraulics of the system. And we --
14 I think that all the parties understand that there is
15 some fundamental technological reasons for why there is
16 a difference of opinion.

17 In our informal response back, in the form of
18 an e-mail to the task force parties, we have said that
19 here is the area of concern and we need to continue to
20 move forward, trying to resolve this concern.

21 This is the same thing that we discussed at a
22 prior meeting held over at our Hydrologic Engineering
23 Center at the end of March. And a commitment was then
24 made both with representatives from the Board, DWR, and
25 the Corps that we will continue to move forward to this

1 in a collaborative fashion to try to find a fit that
2 will work for all the parties.

3 And we are still committed to do that. Our
4 comments, when they do come back, will be laid out in
5 fashion that here's the issues, here's where we think
6 from a Corps of Engineers perspective that we would
7 like to move with this, and setting a process to move
8 forward, sit down, pencil and paper, with the smart
9 people in the room and find something that will work.

10 And that's kind of where we are at this point.
11 I don't think that we're in a position to say that it
12 is going to be next week, next month that we could
13 provide the MOU back to the Board and say that we think
14 it's ready to move forward on. But we are certainly
15 committed to move forward on it and try to complete it
16 as soon as we can.

17 And I'm open any questions you might have.

18 PRESIDENT CARTER: Any questions for Mr.
19 Frentzen?

20 VICE-PRESIDENT HODGKINS: Just, Clark, just
21 generally, and this may not be a fair question to ask
22 you, but I will anyway. If the Board today were to
23 give the President the authority to execute an MOU that
24 is generally consistent with the MOU we see before us,
25 would that in any way be inappropriate as far as the

1 Corps is concerned?

2 I mean, we are interested and anxious to get
3 this done, and Board meetings come once a month; so
4 depending on when we reach agreement, we could be
5 adding another six weeks on to that in the future.

6 So I'm trying to understand from the
7 standpoint of first, wanting to continue to work with
8 you collaboratively, but second, wanting also to be
9 able to minimize the time to get this done once we have
10 agreement. What's your advice?

11 MR. FRENTZEN: Well, it's an interesting
12 question, Mr. Hodgkins, but I don't think that I'm the
13 one that should be making the decision for the Board on
14 the matter.

15 I will say that personally I think that we
16 will reach an amenable outcome on this. The Corps has
17 stated, I think, all along that we would prefer and our
18 policy dictates the use of a certain type of
19 methodology. But as always in these technological
20 aspects, the devil is in the details.

21 So I think until there is a meeting of the
22 minds of the folks that hold the technology in their
23 minds, what we call subject matter experts, I'm not
24 going to be able tell you for certain whether the
25 decision is going to be, you know, enough that the

1 Board will be ready to move ahead with your decision.

2 You might want to also ask the opinion of
3 others in the room that are participating on the task
4 force to get their take on it. But, I think --
5 individually, I think that that's a proactive stance,
6 certainly, but you may not be ready.

7 BOARD MEMBER SUAREZ: May I?

8 PRESIDENT CARTER: Ms. Suarez.

9 BOARD MEMBER SUAREZ: I have a question
10 regarding the signature block for Mr. McMahon -- or
11 General Brigadier.

12 MR. FRENTZEN: Yes.

13 BOARD MEMBER SUAREZ: Brigadier General.
14 Where -- has he agreed to sign the agreement? Has he
15 been briefed on the agreement?

16 MR. FRENTZEN: He has seen the agreement. He
17 is aware of it. And he is also aware of the sticking
18 points that we still have.

19 BOARD MEMBER SUAREZ: So he is not ready to
20 sign it today?

21 MR. FRENTZEN: He is prepared to sign it when
22 all the parties are prepared to sign it. And what that
23 means is we need to make sure that the Board, the DWR,
24 and the Corps of Engineers all have a meeting of the
25 minds of all of the provisions that are in the

1 agreement.

2 BOARD MEMBER SUAREZ: But you just told me
3 that there isn't a meeting of the minds on all of the
4 provisions.

5 MR. FRENTZEN: That's correct.

6 BOARD MEMBER SUAREZ: So he is not ready to --
7 prepared to sign it?

8 MR. FRENTZEN: He is not prepared to sign it
9 until there is a meeting of the minds, that's correct.

10 BOARD MEMBER SUAREZ: Thank you.

11 PRESIDENT CARTER: In regard to that, Mr.
12 Frentzen, is General McMahon the appropriate authority
13 within the Board to do this?

14 Because my understanding is that most of these
15 projects, when you are considering projects, go back to
16 Headquarters to the chief or the assistant secretary.
17 So is General McMahon the appropriate person to commit
18 the Corps on this particular agreement?

19 MR. FRENTZEN: We believe it is, President
20 Carter.

21 PRESIDENT CARTER: Okay. Any other questions?

22 BOARD MEMBER SUAREZ: I have another one for
23 Mr. Tabor. Is he still here?

24 MR. TABOR: Yes, ma'am.

25 BOARD MEMBER SUAREZ: Kind of in a similar

1 line of inquiry, is Director Snow prepared to sign this
2 agreement?

3 MR. TABOR: Well, I don't think anybody is
4 prepared to sign the agreement.

5 I think what's before the Board today is a
6 resolution that would approve this in concept and
7 authorize the President to sign it once the last
8 details are worked out in the agreement.

9 We're not -- nobody is asking anybody to sign
10 today because, as you can see in Paragraph 6, it --
11 this assumes that there a methodology that we have all
12 agreed to and we haven't done that yet.

13 Now we're perhaps close, and I don't know that
14 the language is going to change dramatically from what
15 this language says. But until we actually reach
16 agreement on that methodology, we're not prepared to
17 sign it.

18 BOARD MEMBER SUAREZ: Well, maybe it is just
19 that I am confused, but the way the agenda reads, it
20 says authorize for you to execute, not negotiate and
21 execute, so maybe I'm just. . . .

22 VICE-PRESIDENT HODGKINS: I think when we
23 agreed to put this on the agenda, we were hopeful that
24 these details would be worked out, and the comments on
25 hydraulic procedures came back and they're not worked

1 out.

2 So given that, it seems to me that probably
3 the best thing to do here is to continue the item to a
4 future agenda without being specific, if we can get
5 away with doing that, and putting it back on the agenda
6 when we are prepared with an agreement that people are
7 ready to sign. And we can provide you the attachments
8 that are also in a form where they are much closer, at
9 least, to final than we are now.

10 PRESIDENT CARTER: Okay. Mr. Bowers or
11 Mr. Sander, do you have anything you'd like to add from
12 the Corps' perspective?

13 MR. FRENTZEN: Just additional information Jim
14 pointed out, this particular agreement is not slowing
15 down our work and our progress on the other 408 actions
16 that are before us. I think it's important that the
17 Board know that.

18 PRESIDENT CARTER: Right. And actually, in
19 our meeting this morning, we related to General McMahon
20 that we really appreciate the Corps stepping up to the
21 plate and processing the -- in particular, the early
22 implementation 408 requests on a very, very responsive
23 and timely basis. That's important to California. And
24 you all have done wonderful work on that, so we really
25 appreciate your help on that.

1 MR. FRENTZEN: Thank you.

2 PRESIDENT CARTER: So Mr. Bower, did you have
3 anything you wanted to add? Mr. Punia?

4 EXECUTIVE OFFICER PUNIA: I just wanted to
5 make a comment. Clark is the point person for the task
6 force on the 408. And it's not an easy task to line up
7 the Corps Headquarters staff, but Clark has done a
8 great job scheduling the meeting and coordinating to
9 keep this process going.

10 PRESIDENT CARTER: Okay. You know, as a
11 suggestion, I think Vice-President Hodgkins has made a
12 good request to go ahead and table this until we do
13 have a meeting of the minds in terms of what the
14 content of the Memorandum of Understanding might say.

15 BOARD MEMBER BROWN: Is that a motion?

16 PRESIDENT CARTER: If there's a --

17 VICE-PRESIDENT HODGKINS: So moved.

18 PRESIDENT CARTER: So moved. Okay, is there a
19 second?

20 BOARD MEMBER BROWN: I'll second.

21 PRESIDENT CARTER: Okay. Any further
22 discussion? Comments?

23 Mr. Punia, would you call the role, please.

24 EXECUTIVE OFFICER PUNIA: Board Member Emma
25 Suarez?

1 BOARD MEMBER SUAREZ: Aye.

2 EXECUTIVE OFFICER PUNIA: Board Vice-President
3 Butch Hodgkins?

4 VICE-PRESIDENT HODGKINS: Aye.

5 EXECUTIVE OFFICER PUNIA: Board Member John
6 Brown?

7 BOARD MEMBER BROWN: Aye.

8 EXECUTIVE OFFICER PUNIA: Board Member Lady
9 Bug?

10 SECRETARY DOHERTY: Aye.

11 EXECUTIVE OFFICER PUNIA: Board President Ben
12 Carter?

13 PRESIDENT CARTER: Aye.

14 So we will table this. Motion carries
15 unanimously. Thank you, very much.

16 VICE-PRESIDENT HODGKINS: Yeah.

17 PRESIDENT CARTER: On to Item 13. Memorandum
18 of Agreement between the Central Valley Flood
19 Protection Board and California Department of Water
20 Resources.

21 This is to delegate the authority to the Board
22 President to execute a Memorandum of Agreement between
23 the Central Valley Flood Protection Board and the
24 California Department of Water Resources to work
25 cooperatively and collaboratively to develop and

1 implement an integrated state flood management program
2 for the Central Valley while preserving their
3 independent authorities and jurisdiction as set forth
4 in the law.

5 This, as you recall, is a follow-on to the
6 interim agreement that we agreed to with the Department
7 in transition last January.

8 So, Ms. Cahill.

9 DEPUTY ATTORNEY GENERAL CAHILL: President
10 Carter, would you prefer that I go down to the podium,
11 or does it work from here? It works for us for you to
12 do it there. If you don't have any presentation
13 materials, that's fine.

14 DEPUTY ATTORNEY GENERAL CAHILL: Now, have you
15 noticed the pattern? The two lawyers have not had
16 PowerPoints. I'm not sure there's a generalization to
17 be made there or not.

18 This is a draft -- well, hopefully when you
19 approve it, it won't be a draft anymore -- a proposed
20 Memorandum of Agreement between the Board and the
21 Department of Water Resources.

22 And the whereas clauses or the recitals that I
23 am not going to go into to lay out the history of the
24 entities. The Board, of course, was the Reclamation
25 Board established in 1911. Starting in 1969, it pretty

1 much became part of the Department of Water Resources.
2 And then the flood legislation last year, and
3 particularly AB 5, dictated that the Board have more
4 independence.

5 And so as we transitioned from the Reclamation
6 Board to the Central Valley Flood Protection Board, we
7 did an interim Memorandum of Agreement with DWR to
8 basically handle the relationship between them as we
9 transitioned into the new Board.

10 And now that we've made that transition, we'd
11 like to enter into a more permanent agreement.

12 The purpose of the agreement is to provide for
13 cooperative, collaborative relationship between DWR and
14 the Board while reserving for each agency the ability
15 to carry out its own responsibilities.

16 So I think we'll just start with the -- I'll
17 go briefly through the operative paragraphs. They
18 start on page 4.

19 And the first sentence of the first paragraph
20 there is really the key one:

21 The Board and DWR will exercise their
22 best efforts to work cooperatively and
23 collaboratively to develop and implement
24 an integrated state flood management
25 program for the Central Valley while

1 preserving their independent authorities
2 and jurisdiction as set forth in the
3 law.

4 Then I think No. 2 says previous delegations
5 of Board authorities to DWR are hereby rescinded.
6 There had been a number of agreements over the years,
7 and the agreements refer to older agreements, and we'd
8 have to dig them out. And it seemed cleaner just to
9 rescind everything and put the current relationship all
10 in one document so that we're not referring to other
11 agreements and having to go find copies.

12 And the agreement provides that DWR will
13 continue to provide administrative and programatic
14 support to the Board.

15 So Paragraph 4 provides DWR will continue to
16 provide administrative support.

17 Paragraph 5 talks about programatic
18 activities, programatic services. It lays out the
19 primary responsibilities of the Board and of DWR.

20 Then I just want to skip to Paragraph 8. The
21 Board will make all decisions relating to the hiring
22 and assigning work to its Executive Officer. This
23 makes it clear that the Executive Officer is the
24 Board's staff and the Board is responsible for tasking
25 him with his work.

1 And then there is a certain amount of direct
2 staff. The staff that reports to the Executive Officer
3 is the Board's direct staff. You actually have a
4 relatively small direct staff, and you get lots of
5 programatic support from DWR.

6 DWR does things for us that you may not even
7 be aware of. I certainly wasn't. There are huge areas
8 where DWR is providing support that allows things to
9 come to the Board in their final form with everything
10 lined up and taken care of.

11 Paragraph 9 says the Board and DWR will pursue
12 a reorganization through appropriate channels that
13 would place staff in the Floodway Protection Section as
14 direct staff of the Board.

15 These are the people who actually do our
16 encroachment permits. It made a lot of sense for them
17 to be direct staff. They work very directly under Jay,
18 doing Board work. So instead of being primarily in
19 their DWR hat, they're going to primarily wear a direct
20 staff to the Board hat.

21 And while this refers to a reorganization
22 which is bureaucratic and takes some time, as a
23 practical matter we've already made that change. Those
24 staff members come to staff meetings. It's smooth,
25 it's underway, we're not being held up by the

1 bureaucracy.

2 Paragraph 10 provides that you may retain
3 independent legal counsel, which you have done. And it
4 also says that the request of the Board, and if there
5 is no actual conflict, DWR will furnish legal services.
6 And we have including but not limited to environmental
7 compliance, public records responses, contracts, real
8 estate, employment matters and other legal matters as
9 needed.

10 Again, DWR is providing you substantial legal
11 assistance. All of the real estate law, all of the
12 real estate transactions, DWR is handling. A lot of
13 the CEQA. There are just -- there's still, even though
14 you now have the Attorney General here sitting with you
15 at your meetings, and even though I'm attending the
16 staff meetings, there is still a lot of legal work that
17 DWR is doing on your behalf and for which we are
18 enormously grateful.

19 Next I think we would just like to -- because
20 you've read this already. It was in your packet. I
21 think Paragraph 11 specifically addresses this real
22 estate help that the Board gives you.

23 Paragraph 13, addresses the Flood Project
24 Integrity and Inspection Branch. This branch will
25 remain under the direction of DWR. But inspection is

1 something that's important both to you and to DWR, and
2 so there's a provision in here that the parties will
3 cooperate to develop priorities for inspections.

4 And there's also a possibility that we may be
5 able to hire some additional inspectors in one of our
6 BCPs. And if we do that, they will become direct staff
7 to the Board, but they will also help out with the work
8 the Inspection Branch does.

9 Paragraph 17 is the budget. That's always of
10 great interest. Effectively, the Board's Executive
11 Officer, the Board staff is going to prepare the budget
12 change proposals, the BCPs and jointly with DWR pursue
13 approval from the Department of Finance.

14 So, your own staff will take a stab at
15 preparing your budget and then hopefully
16 collaboratively with DWR move it through the State
17 process.

18 Paragraph 19 refers to some schedules, and
19 there's an Exhibit 2 that has some times so that when
20 DWR is bringing things to the Board these are the times
21 at which we'd like to have them so we'd have enough
22 time to get them on the agenda and process them and not
23 be doing things at the last minute.

24 Jay, is it true there may be some adjustments
25 to these times?

1 EXECUTIVE OFFICER PUNIA: Yes. Exhibit 2 is
2 written working draft, so our staff has expressed some
3 concern so we may make minor adjustment to the times
4 listed and the table.

5 DEPUTY ATTORNEY GENERAL CAHILL: And so, I
6 would like thank to Ward Tabor who did the last item
7 and who is here, who worked on this for DWR.

8 We had good input from our Executive Committee
9 of the Board. Butch and Ben contributed. I'm sure
10 Ward got contributions from DWR staff. This was
11 actually one of the easier agreements I've ever worked
12 on, so I guess we were collaborative already.

13 And I would recommend that the Board move to
14 approve this agreement in substantially this form,
15 while allowing staff to adjust that exhibit as they see
16 fit, and authorizing the President to sign it.

17 VICE-PRESIDENT HODGKINS: So moved.

18 PRESIDENT CARTER: Thank you.

19 SECRETARY DOHERTY: Second.

20 PRESIDENT CARTER: We have a motion and a
21 second to approve the agreement substantially as it
22 exists today. Discussion? Ms. Suarez.

23 BOARD MEMBER SUAREZ: Yes. I have a question
24 regarding the director of DWR. Is he prepared to sign
25 this agreement as it's presented to us today?

1 DEPUTY ATTORNEY GENERAL CAHILL: It's my
2 understanding he is, but Ward might be able to answer
3 that.

4 MR. TABOR: Hello, again. Ward Tabor.

5 He has been briefed on the document. I'm not
6 sure that he has read it completely. But as far as we
7 know, David Gutierrez, the Deputy Director, has
8 recommended it to him for his signature. So we
9 anticipate that he will sign it when presented to him.

10 BOARD MEMBER SUAREZ: But he has not seen this
11 agreement though?

12 MR. TABOR: He's seen it.

13 BOARD MEMBER SUAREZ: And there is not going
14 to be any more changes to it, except for this time
15 table issue?

16 MR. TABOR: I don't anticipate any other
17 changes to it.

18 BOARD MEMBER SUAREZ: So why does it say
19 draft?

20 EXECUTIVE OFFICER PUNIA: It's still draft. I
21 got a call from David Sandino yesterday that they would
22 like to reformat it a slightly different format before
23 the Director and we will ask the Board President to
24 sign it.

25 PRESIDENT CARTER: What does reformat mean?

1 EXECUTIVE OFFICER PUNIA: I think legal office
2 have their own format on the these type of agreements.
3 I think this came from the Board staff, not through the
4 legal office of the DWR. I think they have some
5 standard format for these agreements.

6 And I think it will be also David Sandino's
7 name that is -- meet the legal sufficiency, and we will
8 add our counsel's name to this agreement that it meets
9 the -- so those are the changes I am aware that we will
10 be implementing and before we will ask the Director and
11 the Board President to sign it off.

12 PRESIDENT CARTER: Ward, are you familiar with
13 what the change in the format might be?

14 MR. TABOR: I really don't know.

15 PRESIDENT CARTER: Okay.

16 MR. TABOR: DWR does have a style manual that
17 some people are slaves to. I personally ignore it
18 myself.

19 BOARD MEMBER SUAREZ: I just think it would be
20 a better practice for all of us to see what's actually
21 going to get signed before we authorize and agree to
22 allow the signature of the MOU.

23 That would be my only comment.

24 SECRETARY DOHERTY: I would like to withdraw
25 my second, because I's like to know if changing the

1 form is going to change the relationship of DWR to the
2 Board.

3 MR. TABOR: I don't believe there is any
4 intent to change the substance of the agreement.

5 EXECUTIVE OFFICER PUNIA: That's correct.

6 SECRETARY DOHERTY: They could not accept our
7 draft rather than having their own form?

8 EXECUTIVE OFFICER PUNIA: The way it was
9 presented, it was in the draft form that the Board may
10 have some changes, so it has to be put in the final
11 format.

12 SECRETARY DOHERTY: But they are saying that
13 they have to use their form for it to be acceptable to
14 them.

15 EXECUTIVE OFFICER PUNIA: Because we didn't
16 have our legal office here, so they are more familiar
17 with finalizing these type of documents. So they were
18 offering to help us to finalize it so that it's ready
19 for the Director and President's signatures.

20 SECRETARY DOHERTY: Ms. Cahill, how do you
21 feel about that?

22 DEPUTY ATTORNEY GENERAL CAHILL: I think that
23 there would be no intent to change any of the
24 provisions when they change the format. But I also
25 think there is no urgency here, and if you wanted to

1 see a final final, next month we could bring it back.

2 It's the Board's pleasure.

3 BOARD MEMBER SUAREZ: Mr. President, my only
4 comments, I am not usually a stickler this way, but
5 these are two very important documents that we
6 discussed today, the MOU and the 408 and this.

7 Boards, years from now when we're not here and
8 another Board is sitting here, they're going to have to
9 live with this document. So I really would want to
10 make sure that what I'm agreeing to is really what's
11 going to -- when Director Snow sees it, that is what he
12 is going to sign and we all know exactly what we are
13 getting into.

14 BOARD MEMBER BROWN: Would the Board feel more
15 comfortable if I changed the motion to give our
16 President the authority to sign it based upon there is
17 no substantial changes in the agreement itself? It
18 doesn't bother me if they want to put it in more of a
19 legalized form as long as there's no changes in the
20 agreement itself.

21 SECRETARY DOHERTY: But it wasn't your motion.
22 It was Butch's motion.

23 BOARD MEMBER BROWN: Oh, that's right, it was
24 Butch's.

25 (Laughter)

1 VICE-PRESIDENT HODGKINS: While I have all the
2 confidence in the world that we could authorize Ben to
3 sign this agreement providing there are no substantive
4 changes, and he and Ginny would handle that well,
5 considering the nature of the concerns, I would like
6 to, I guess -- what was the term you used on the
7 previous one?

8 PRESIDENT CARTER: Withdraw the motion.

9 VICE-PRESIDENT HODGKINS: Well, I'm going to
10 withdraw the motion --

11 PRESIDENT CARTER: Table?

12 VICE-PRESIDENT HODGKINS: -- and table the
13 agreement until it's in final form.

14 PRESIDENT CARTER: Okay.

15 SECRETARY DOHERTY: I agree.

16 DEPUTY ATTORNEY GENERAL CAHILL: Ward, are you
17 aware of any reason why it has to be done this month as
18 opposed to next month?

19 MR. TABOR: No.

20 EXECUTIVE OFFICER PUNIA: No urgency. Next
21 month will be fine.

22 PRESIDENT CARTER: Most of the sense of
23 urgency has been coming from the Board, quite honestly,
24 and that's why we took a proactive approach to drafting
25 the agreement. And we are the ones who have been

1 pushing this through the process, and DWR has been
2 responsive to that. But we have been pushing. So --
3 and we have been creating the sense of urgency. If the
4 Board prefers to finalize it before they approve it,
5 that is perfectly acceptable and within their purview,
6 so. Do we need a motion to table it?

7 SECRETARY DOHERTY: I withdrew my motion. He
8 withdrew his and -- I mean my second.

9 PRESIDENT CARTER: But this being an action
10 item, do we need a motion to table?

11 DEPUTY ATTORNEY GENERAL CAHILL: I don't think
12 so. You can just not take action.

13 PRESIDENT CARTER: Okay. So, we will revisit
14 this in a future meeting and bring back the final
15 document, the actual document, to the Board for
16 consideration.

17 So I do want to give Mr. Winkler -- you wanted
18 to address the Board on this particular item? And you
19 will have another opportunity to future meeting as
20 well, but please we'd like to here from you.

21 MR. WINKLER: Good afternoon. Steve Winkler,
22 Deputy Director of Public Works for San Joaquin County
23 and also representing the San Joaquin County Flood
24 Control and Water Conservation Board. I decided I had
25 better slow down when I looked over at the transcriber

1 here.

2 Just a brief sort of looking in from the
3 outside. We're not a party to this agreement, but I
4 think virtually all local agencies that are under the
5 jurisdictional boundaries of the Reclamation Board and
6 now Central Valley Flood Protection Board, it looks an
7 awful lot like much ado about the same old, same old.

8 What's changed with this MOU? You know,
9 highlighted in Section 5C, is the legislative mandate
10 to -- or statement of intent to become independent and
11 have your own staff. And so it's sort of analogous to
12 there shall be a divorce, but we're going to continue
13 to eat together, sleep together, and enjoy all of the
14 marital privileges. I'm not sure I see the divorce
15 here.

16 And I think the concerns that presents to
17 local agencies is -- I'm not sure, you know -- I'm not
18 from Walt's office, we didn't sponsor or even weigh in
19 on this particular issue when it was passed, but it was
20 passed, and I don't see the what's changed coming out
21 of this MOU.

22 The concern that we see is with this sort of
23 duality that goes on that the Board and its staff are
24 very dependant upon DWR for its opinions, its
25 recommendations and waiting for its staff to do its job

1 before we can move forward timely with some things, and
2 that is of concern.

3 And you have heard about the Lower Bear Creek
4 and Lower Calaveras encroachment issues. For two years
5 now, we've been trying to get that done, and it's
6 always finger pointing between the agencies and we
7 don't have the staff and they don't have the staff.

8 I think those responsibilities, if they're
9 necessary to complete projects, need to be in one house
10 without any potential conflict of interest as to what's
11 in the best interests of the project sponsor, in the
12 case of project levees, which is your Board.

13 So I raise it as a question. I'm not
14 particularly weighing in for or against this MOU, but
15 it is not apparent to a casual read what's changed. It
16 sounds like we are just reinforcing and in some cases
17 delegating even responsibility to DWR.

18 So I just offer that as a public comment.
19 Thank you.

20 PRESIDENT CARTER: Appreciate that. Thank
21 you. So we'll revisit at a future meeting. We're a
22 little bit ahead of schedule.

23 Mr. Winkler, would you -- you had an item that
24 you wanted to bring up under public comment. We have
25 already addressed that, but since we have some extra

1 time, if you'd like to address the Board on your
2 concerns, we'll reopen that item, Item 4.

3 MR. WINKLER: Thank you, again. Steve
4 Winkler, San Joaquin County Public Works.

5 Just on Item 7J, which was approved on -- I'm
6 sorry, 7K, which was approved on consent earlier in the
7 meeting today. I know on Item 7G, it was -- we went
8 out of our way to clarify that the Mokelumne River is
9 in San Joaquin County.

10 7K also involves the Mokelumne River, and it's
11 noted that the project is in Sacramento County, and
12 much of the project is. It starts in Sacramento County
13 and ends in Sacramento County. But for the record,
14 many of the pipeline alignment does come through San
15 Joaquin County and then perforates and is jacked and
16 bored under the south bank and north bank of Mokelumne
17 River. So there is an impact to the San Joaquin
18 County.

19 We're not objecting to the project but felt
20 that maybe this illustrates some of the concerns.
21 Sometimes when dealing with one jurisdiction, we fail
22 to recognize that it has multijurisdictional impacts.
23 And we have had opportunity to try to work with Board
24 staff to make sure that proper notices are going out
25 and in some cases -- in this case, I believe the

1 Mokelumne river is a jurisdictional water body for the
2 Board, and we are not necessarily being given referral
3 comment opportunities that have historically been
4 enjoyed.

5 And while we did weigh in with a set of
6 requested conditions on this, they basically did not
7 give us our normal opportunity. And it may be the
8 oversight that they felt it was all in Sacramento
9 County, but I just wanted to get it in the record that
10 this is a project that does affect San Joaquin County
11 as well. Thank you.

12 PRESIDENT CARTER: Thank you. Okay. Just a
13 question. Was staff aware that this particular
14 project, 7K, did cross the county boundaries?

15 EXECUTIVE OFFICER PUNIA: Gary, you want to
16 address this?

17 CHIEF ENGINEER HESTER: We did have an
18 opportunity -- I was aware of Mr. Winkler's concerns,
19 and we did have an opportunity to talk with staff about
20 it. And yes, while as stated the majority of the
21 project is in Sacramento County, there is an aspect
22 that's within San Joaquin County.

23 And I think the comments that you heard are
24 appropriate. We need to make sure that they have an
25 opportunity to comment when the project's within their

1 jurisdiction. And in general the staff agrees with
2 that comment.

3 PRESIDENT CARTER: And the opportunity was not
4 afforded for this particular project?

5 CHIEF ENGINEER HESTER: I don't know the
6 answer to that directly. I think Steve Dawson is the
7 one who prepared the staff report. I'd defer to Steve
8 to answer that question.

9 PRESIDENT CARTER: Okay. Steve, we are going
10 to have to get you a seat in the front row, I think.

11 MR. DAWSON: Steve Dawson, Floodway Protection
12 Section. In this case, they were not afforded a chance
13 to comment.

14 Basically in that area, they have reclamation
15 districts that did comment on this project. This is a
16 designated floodway area. We do not have quote project
17 levees down there. Therefore, as an oversight, they
18 did not get the chance to comment.

19 PRESIDENT CARTER: Okay. Appreciate that.
20 Thank you very much.

21 All right. Ladies and gentlemen, let's move
22 on to Item -- I believe we're on 14, is it? Board
23 Sponsored Projects and Study Agreements, Lower San
24 Joaquin River Feasibility Investigation.

25 This is to consider approval of the Local

1 Feasibility Cost-Sharing Agreement with the San Joaquin
2 Area Flood Control Agency and San Joaquin County and
3 the approval of a Feasibility Cost-Sharing Agreement
4 with the US Army Corps of Engineers.

5 Mr. Rice, good afternoon.

6 MR. RICE: Good afternoon, President Carter
7 and Members of the Board. My name is Merritt Rice, and
8 I'm an engineer for the Department of Water Resources
9 in the Division of Flood Management.

10 Since late last year, the Department of Water
11 Resources and Board staff have been working with the
12 Corps of Engineers and local interests primarily within
13 San Joaquin County towards initiating a feasibility
14 scope investigation for flood damage reduction along
15 the lower San Joaquin River.

16 I'm here today to report on status of those
17 efforts and to request that the Board approve a
18 resolution. That resolution is to provide authority to
19 the Board President or Secretary to execute a Local
20 Feasibility Cost-Sharing Agreement, or LFCSA, and a
21 Feasibility Cost-Sharing Agreement, FCSA, for the Lower
22 San Joaquin River Feasibility Investigation, once those
23 documents have been finalized by the Corps, Department
24 of Water Resources, and the San Joaquin Area Flood
25 Control Agency or SJAFC.

1 With me here today, I see Eric Coke, back
2 there. Russ Rote, Roger Churchwell, Steve Winkler, and
3 I noticed a few other folks from the Corps.

4 Mr. Coke is with DWR, and his shop will be
5 responsible for project management responsibilities
6 from a Department of Water Resources perspective.

7 Mr. Rote is the Corps Project Manager.

8 Roger Churchwell is the Director of
9 Engineering for SJAFCA, which is the local sponsor for
10 the investigation.

11 Steve Winkler, as you know, is San Joaquin
12 County Flood Control and Water Conservation District.

13 In addition, we've been working closely with
14 Gary Hester of your staff. So between all of us, we
15 should be able to address any issues that you may have
16 today.

17 Within your Board read-ahead package, you
18 should find seven items. The first is a summary report
19 about the investigation. The second is a letter you
20 acting as the Reclamation Board sent the Corps dated
21 November 16, 2007 agreeing to become a nonfederal
22 sponsor for the study.

23 A map of the general study area. A draft
24 resolution by SJAFCA Board of Directors authorizing
25 their Executive Director to sign agreements with the

1 Corps, the Board, and other local agencies regarding
2 the investigation.

3 And incidentally, the SJAFCA Board has
4 executed that resolution, and I've provided copies to
5 Mrs. Pendlebury of your staff. I just did that, so you
6 don't have them yet.

7 Also included is a draft FCSA developed by the
8 Corps which documents the commitments of the Department
9 of the Army and the nonfederal sponsor to share the
10 cost of the feasibility study.

11 Also included is a draft LFCSA developed by
12 DWR and SJAFCA which documents the commitments of the
13 Board and SJAFCA to share the cost of the nonfederal
14 portion of the feasibility study.

15 And lastly, the draft resolution I mentioned
16 requesting the Board to provide authority to the Board
17 President or Secretary to execute the agreements.

18 As discussed in the November 2007 Board
19 meeting, the Corps completed a Reconnaissance Scope
20 Study of flood damage reduction and ecosystem
21 restoration improvements along the lower San Joaquin
22 River in September 2004.

23 The major purpose of a Reconnaissance Study,
24 or that Reconnaissance Study, was to determine if there
25 was sufficient interest for the Corps to further

1 investigate resource problems and identify potential
2 solutions as part of a feasibility phase or feasibility
3 scope investigation.

4 That Reconnaissance Study which focused
5 primarily along the main stem of the San Joaquin River
6 from the Eastside Bypass all the way down to the Delta
7 concluded that there were serious flood problems along
8 the river and that a feasibility scope study was
9 warranted. However, for several reasons, that
10 feasibility study never did progress.

11 Currently, representatives from San Joaquin
12 County have indicated their interest in becoming a
13 local partner along with the State of California.

14 There are a number of other cities, counties,
15 and local reclamation districts along the river
16 basically upstream from San Joaquin County, and we
17 contacted all of them, and they -- none of them wished
18 to participate in the feasibility scope studies at this
19 time.

20 Accordingly, the current primary study area
21 consists of the lower San Joaquin River and its
22 floodplains within San Joaquin County downstream to the
23 Stanislas River including eastside tributaries. This
24 area consists of the City of Stockton, Manteca,
25 Lathrop, Reclamation District 17 and 404, and major

1 distributaries to the San Joaquin River in the
2 southernmost reaches of the Delta, including the
3 Paradise Cut area.

4 The Corps has prepared a draft Project
5 Management Plan, or PMP, which is the primary
6 supporting document to the FCSA.

7 The purpose of a PMP is to define the major
8 study tasks, study management, task responsibilities,
9 schedule, and is the basis for estimating the study
10 costs. That estimated cost is \$10.16 million.

11 This cost is to be shared equally between the
12 Corps and the nonfederal sponsors. The nonfederal
13 portion of the cost is to be shared equally between the
14 State and SJAFCA.

15 SJAFCA intends that its share of the cost will
16 primarily be as in-kind services. Much of those
17 in-kind services will be accomplished along the major
18 tributaries to the San Joaquin River in and around
19 Stockton, Lathrop and Manteca.

20 The State's portion of study cost is estimated
21 at \$2.54 million, and it will be as -- there will be a
22 little bit of in-kind services, primarily for project
23 management and those types of things, but most of it
24 will be as cash to the Corps.

25 The intended source of the State's share of

1 funding will be from provisions in Proposition 84. A
2 request to use a portion of the Proposition 84 bond
3 funds for cost-shared federal feasibility studies is
4 being processed to the Director of the Department of
5 Water Resources for approval.

6 As you may know, the product of a feasibility
7 study will be a feasibility report including supporting
8 environmental and other technical documentation. The
9 feasibility report is to support ultimately a chief of
10 engineer's report to the Office of Management and
11 Budget and ultimately to Congress and hopefully for
12 their use in authorizing a project for implementation.

13 We expect the study to take 48 months to
14 complete; but as the study progresses, we are going to
15 continue to work and to seek opportunities to
16 accelerate the study schedule.

17 I suppose one question that you may have today
18 is: Why are we here requesting delegated approval to
19 execute the FCSA and the LFCSA?

20 The simple answer is that we believe it very
21 important to execute these documents prior to the end
22 of the current federal fiscal year which ends on or
23 right after 30 September, 2008 or roughly ten weeks
24 from now.

25 We believe that there is a high likelihood at

1 the federal level, given that this is an election year,
2 that there would be a number of continuing resolutions
3 in FY '09. We understand, and maybe a few folks from
4 the Corps can help me on this, but we understand that
5 the Corps cannot execute new cost-sharing agreements
6 while under a continuing resolution.

7 Accordingly, based on the heightened need to
8 move forward with the investigation, especially at the
9 local level, and to maintain the momentum of the study,
10 the study team has been working vigorously to see that
11 the investigation is initiated prior to the end of FY
12 '08.

13 There are a number of -- or several major
14 steps remaining before this can happen. They include:
15 The Corps finalizing the Project Management Plan; the
16 Corps, Department of Water Resources, and SJAFCA
17 finalizing the language and the FCSA and LFCSA;
18 Department of Water Resources Contract Services
19 reviewing both those agreements; SJAFCA, and then this
20 Board through today's resolution signing both
21 documents; and then the Department of General Services
22 reviewing the agreement package; and finally, the Corps
23 signing the FCSA.

24 We can't be certain when these approvals will
25 be finished, and that's why we're asking for the

1 authority now to authorize execution of the agreements,
2 pending their finalization and providing that they
3 don't materially change from the way they are looking
4 right now.

5 I do have to be frank with you though that
6 there is always a chance that any of those remaining
7 steps -- that in any of these remaining steps that
8 something could pop up and cause us to delay and miss
9 the end of the year.

10 However, this is an extremely worthwhile
11 investigation, and it will lead to major improvements
12 to existing flood control systems along the lower San
13 Joaquin River, and the study team is working hard to
14 keep it on track.

15 So I think we'd be happy to answer any
16 questions that you might have. I think there is enough
17 of us here to do that.

18 PRESIDENT CARTER: Thank you very much, Mr.
19 Rice. Any questions for Mr. Rice?

20 BOARD MEMBER BROWN: Mr. Rice, what do you
21 hope will come out of these two studies? What do you
22 envision?

23 MR. RICE: First of all, it's -- if I wasn't
24 clear, it's one study, one Federal Feasibility Study
25 that the State and SJAFCA are partnering with.

1 BOARD MEMBER BROWN: Wasn't there a
2 pre-feasibility study to that?

3 MR. RICE: There was a Reconnaissance Study
4 that was completed about four years ago.

5 BOARD MEMBER BROWN: It's all done, all
6 completed?

7 MR. RICE: All completed. And the normal
8 process is that you have to complete -- the
9 Reconnaissance Study is just a determination that
10 there's a problem, potential solutions, and it's worthy
11 of the federal government to move forward with a
12 nonfederal sponsor into the Feasibility Scope Studies.

13 The Feasibility Scope Studies is that -- is
14 the next step that truly defines the problems, the
15 issues, and potential solutions and is the document,
16 like I mentioned, that goes to Congress.

17 Where I might have confused you is the FCSA
18 and the LFCSA. Those are -- the FCSA is the document
19 that the locals or the nonfederal folks need with the
20 Corps. That's the contract between the Corps and the
21 nonfederal folks to proceed with the study to -- it
22 breaks down who pays for what.

23 The Local Feasibility Cost-Sharing Agreement
24 is the agreement that the Board would have with SJAFCA
25 as to how the local costs are split and who does what.

1 What do we expect to see falling out of the
2 project? One of the items is in SB 5 there was a
3 requirement to look at a new bypass near the Paradise
4 Cut. We'll be looking at that. So perhaps -- and
5 there is strong bipartisan, if you want to call it
6 that, support for that kind of a modification to
7 Paradise Cut -- it is fairly unique -- by not only the
8 development community but also the environmental
9 community.

10 There is also a strong desire in the Stockton
11 area for further upgrade and improvement of many of
12 levees and channels within the Stockton area. They're
13 in danger, many of the areas in the Stockton, and Roger
14 Churchwell can speak better this than I can, of being
15 mapped into the FEMA floodplain fairly quickly, and
16 there needs to be improvements along that system, levee
17 and channel improvements, to heighten their level of
18 flood protection hopefully to a minimum of 200 years.

19 There is also in Reclamation District 17 along
20 the San Joaquin River, there is a need to modify
21 various levee segments to increase their level of
22 protection ultimately on the east side of the river to
23 in excess of a 200-year level of protection.

24 BOARD MEMBER BROWN: What about upstream
25 regulation? Is that part of your consideration too?

1 MR. RICE: Upstream regulation has to be
2 considered in the investigation. They'll be -- I
3 believe Russ and the Corps has included in the Project
4 Management Plan a component to look at the potential
5 for increasing the upstream storage space for flood
6 control or said to reoperate those existing upstream
7 facilities.

8 I would never want to promise anything because
9 I know that's been looked at a number of times in the
10 past and it has never really been feasible, but we'll
11 look at it again.

12 BOARD MEMBER BROWN: What's the status of the
13 dam above Friant now that they have studied for some
14 time?

15 MR. RICE: There's a dam that is part of --
16 and I don't recall it's name right now, but it's
17 Temperance Flat, which would actually be built within
18 Millerton Lake.

19 The status is that it's under investigation by
20 the Bureau of Reclamation primarily for water supply,
21 and it does have a component for flood control. That
22 also would be because it's a tributary to the San
23 Joaquin.

24 It would be considered, but right now its only
25 real value is downstream to about the Merced River.

1 And remember that we are focusing on primarily the
2 Stockton area. And we'll determine whether or not
3 there's influences that far downstream, but I don't --
4 I would never want to promise you that there would be.

5 BOARD MEMBER BROWN: Okay.

6 PRESIDENT CARTER: Any other questions for Mr.
7 Rice or members of his team? Very good. Thank you.

8 What's the Board's pleasure here? We've been
9 asked to approve a resolution delegating authority to
10 the President or Secretary to sign the Local
11 Feasibility Cost-Sharing Agreement and the Feasibility
12 Cost-Sharing Agreement with the Corps.

13 BOARD MEMBER BROWN: I think it's a good
14 project, and I'm willing to go ahead and make a motion
15 that we give you the authorization to do that.

16 PRESIDENT CARTER: Okay. So we have a motion
17 to -- there is a Resolution No. 08-16, which is the
18 resolution regarding the Lower San Joaquin River
19 Feasibility Study, approve the Feasibility Cost-Sharing
20 Agreement and Local Feasibility Cost-Sharing Agreement.

21 SECRETARY DOHERTY: I'll second that motion of
22 08-16.

23 PRESIDENT CARTER: Okay. I think it's -- is
24 it 08-13?

25 DEPUTY ATTORNEY GENERAL CAHILL: 16.

1 PRESIDENT CARTER: It is actually 08-16, I
2 believe.

3 DEPUTY ATTORNEY GENERAL CAHILL: President
4 Carter, I would just like to note that in the federal
5 agreements the Certificates of Authority are set up
6 with the wrong person's signature, and that could be
7 corrected when the finals are put out.

8 PRESIDENT CARTER: I noticed that my name was
9 on there as the Chief Legal Representative.

10 DEPUTY ATTORNEY GENERAL CAHILL: Right. And
11 the same thing has happened for the Board of
12 Supervisors.

13 PRESIDENT CARTER: I will not fess up to that.
14 Okay. Yes, we'll go ahead and correct those. Thank
15 you. Ms. Suarez?

16 BOARD MEMBER SUAREZ: On this resolution
17 08-16, is this a typical form of resolution, or is all
18 this original language? Do you recall?

19 DEPUTY ATTORNEY GENERAL CAHILL: I believe
20 Mr. Rice drafted it or someone in his group.

21 MR. RICE: I initially drafted it, but I
22 followed an example, so I thought it was the
23 appropriate form. If it wasn't, I apologize.

24 DEPUTY ATTORNEY GENERAL CAHILL: It appears
25 that it's been actually tailored to the specific set of

1 agreements.

2 BOARD MEMBER SUAREZ: My question, I guess, is
3 I find some of the language of the Board directing DWR
4 to do something. Board directing DWR staff to do
5 something. I didn't know we could do that.

6 MR. RICE: Well, this is DWR staff in support
7 of the Board.

8 MR. LEE: If I could offer some clarification.
9 I'm Roger Lee. I work with the Flood Projects Branch,
10 and it is typical language that we used in the past.
11 We are DWR staff that works on the Board behalf.
12 That's what our branch does.

13 PRESIDENT CARTER: Okay. I guess the
14 alternative would be delegate the authority to DWR
15 staff to negotiate or to enter into -- to complete the
16 negotiations of the agreements and to complete the
17 negotiation of the agreement with the Corps.

18 BOARD MEMBER SUAREZ: I just wanted to in my
19 mind to clarify that we actually have a recourse if DWR
20 staff doesn't do what we direct them. I mean, that's
21 kind of -- we're directing people to do something, but
22 what if they don't do it? If we really don't have any
23 power over them, then it doesn't seem to have a lot of
24 value.

25 PRESIDENT CARTER: Any comments?

1 EXECUTIVE OFFICER PUNIA: That's clarified in
2 our MOA with the DWR, that they will work on behalf of
3 the Board.

4 SECRETARY DOHERTY: Which we haven't done.

5 PRESIDENT CARTER: Well, we have an interim
6 MOA that's in effect that does provide for that.

7 DEPUTY ATTORNEY GENERAL CAHILL: It might be
8 that you do want "requests" or "delegates," something
9 that is less direct than "direct."

10 PRESIDENT CARTER: Would you like to propose a
11 change to the language?

12 SECRETARY DOHERTY: I would just propose it to
13 be more specific what it's talking about, I mean,
14 particular people you mentioned.

15 DEPUTY ATTORNEY GENERAL CAHILL: Mr. Lee, how
16 would we describe the group in DWR?

17 MR. LEE: I'm not sure how it was defined in
18 the MOU. Was there a certain way that our group was
19 defined? I haven't seen that.

20 DEPUTY ATTORNEY GENERAL CAHILL: What is the
21 name of your group?

22 MR. LEE: Um.

23 PRESIDENT CARTER: Actually, it is listed in
24 project background. Let's see.

25 MR. LEE: We're the Project Development Branch

1 under the Flood Projects Office.

2 PRESIDENT CARTER: That would be DWR, Project
3 Development Branch. But would the Project Development
4 Branch negotiate both of the agreements?

5 MR. LEE: Typically, we negotiate the
6 agreements, and then from there we take it to legal
7 counsel for their concurrence.

8 PRESIDENT CARTER: Right. So it's -- would
9 you prefer that we -- the language read that the -- now
10 I've lost my place.

11 Okay, here we go:

12 The Board requests the Project
13 Development Branch of the Department of
14 Water Resources staff to complete
15 negotiations of the LFCSA with SJAFCA
16 and same language.

17 Okay. Did we capture that? Board requests
18 the Project Development Branch of the Department of
19 Water Resources, strike out staff, to complete the
20 negotiations.

21 Is that acceptable to your motion, Mr. Brown?

22 BOARD MEMBER BROWN: Yes, it is.

23 PRESIDENT CARTER: And your second?

24 SECRETARY DOHERTY: Yes.

25 PRESIDENT CARTER: Okay. So we have a motion

1 and second. Any further discussion?

2 Mr. Punia, would you call roll, please.

3 EXECUTIVE OFFICER PUNIA: Board Member John
4 Brown?

5 BOARD MEMBER BROWN: Aye.

6 EXECUTIVE OFFICER PUNIA: Board Member Lady
7 Bug?

8 SECRETARY DOHERTY: Aye.

9 EXECUTIVE OFFICER PUNIA: Board member Emma
10 Suarez?

11 BOARD MEMBER SUAREZ: Aye.

12 EXECUTIVE OFFICER PUNIA: Board Vice-President
13 Hodgkins?

14 VICE-PRESIDENT HODGKINS: Aye.

15 EXECUTIVE OFFICER PUNIA: Board President Ben
16 Carter?

17 PRESIDENT CARTER: Aye.

18 Motion carries unanimously.

19 Thank you very much, Mr. Lee. Thank you very
20 much, Mr. Rice.

21 Okay. Let's move back to Item 16 and just
22 reopen this. Maybe we could ask -- I'd like to revisit
23 this issue on vegetation and PL 84-99, and maybe if
24 Mr. Sander could come up and relate to us or educate us
25 with regard to the Corps' guidance on PL 84-99 versus

1 its guidance on levee maintenance standards with regard
2 to vegetation.

3 We specifically had a question and approved --
4 reluctantly, I might add -- the project last month with
5 the request that we get some clarification on what
6 species of willows these were that only grew to an inch
7 in diameter and eight feet tall and bent over when the
8 water flowed over them.

9 And so we still -- the Board still remains
10 concerned about if we do these things, is that
11 consistent with other guidelines that appear to be in
12 conflict with that guidance to us from the Corps. And
13 in five, ten, 15 years, are we going to be asked to
14 come back and take those out and then have to mitigate
15 for them again because we have removed critical habitat?

16 MR. SANDER: Thank you, Mr. President. Jim
17 Sander, Corps of Engineers, Sacramento District,
18 Operations and Readiness Branch.

19 You kind of have a number of different
20 questions kind of put together there, and I'm trying to
21 figure out the best way to parse them out.

22 As you look at rehabilitation of a completed
23 flood control work, what is required under
24 rehabilitation is that we replace the project back to
25 what it was prior to the flood event. In many cases,

1 to do that, we are required to look at the O&M manual,
2 look at the as-built drawings for that project, and
3 then make a determination on what the best fix is for
4 that project.

5 If you look at projects like the Sacramento
6 River Flood Control Project, which includes many
7 different levee districts and reclamation districts,
8 there is a revision in the standard O&M manual for that
9 project that allows for the planting of small trees and
10 bushes on the waterside slope of the levee.

11 We also have to meet requirements for
12 environmental mitigation with respect to doing work on
13 these projects.

14 If you look at the Corps of Engineers, the
15 Department of Water Resources, and the environmental
16 agencies, we have actually been working together for
17 the last three or four years in a collaborative manner
18 to come up with acceptable designs for rehabilitation
19 projects and also projects like Sacramento River Flood
20 Control Project, bank protection.

21 And we have developed designs that allow for
22 vegetation plantings of the kind that you alluded to,
23 specific species of willow that grow to a very small
24 diameter, not to a very high height, to be incorporated
25 into those projects.

1 As you look at the requirements for operation
2 and maintenance of any project, I think one of the
3 questions that the Board has was: Well, what happens
4 if we plant these things and they grow too large, and
5 aren't we creating a maintenance problem?

6 Even if you look at the levees in the Midwest,
7 where there is sod on the levee slopes, they are
8 required to perform maintenance regularly on that
9 grass. It can only grow to a certain height, so they
10 have to come in and mow it on a regular basis.

11 Here in the Central Valley, you have the same
12 sort of requirements for maintenance, to go in and
13 ensure that the kind of vegetation that has been
14 planted in conjunction with the flood control project
15 is maintained appropriately, that it doesn't grow too
16 large, that it doesn't encroach way out into channel
17 and reduce your channel capacity.

18 The standards that the Corps has had in place
19 for many, many years with respect to vegetation and
20 which after Katrina we have become much more concerned
21 about and want to have a more rigorous application of
22 the standards, we are -- when we are designing these
23 projects, we are taking into account the requirements
24 under the engineering technical letters for vegetation
25 on levees.

1 So the projects that you had concern about for
2 Public 84-99, those were coordinated with the
3 environmental agencies, they were coordinated within
4 the Corps of Engineers, and they were also coordinated
5 with DWR with respect to kind of vegetation that was
6 going to be incorporated into the fix.

7 BOARD MEMBER BROWN: I'm not sure I understood
8 the answer to the question.

9 Our concern mainly hinges around the planting
10 of trees on the waterside on these levees. That's one,
11 is we're not sure we should do that or not, that that's
12 good for the flood control.

13 Might be okay and help some of the
14 environmental needs and concerns, but we have concerns
15 about the impairment to the flood control channels, not
16 only with restriction of flow, but more concerning
17 would be with the growth of roots through the
18 embankment, just similar to earth-constructed dams,
19 some of the problems that have been experienced in the
20 past with earthen dam embankments.

21 But the other one is that you also said is
22 that to replace the channel back to its prior state,
23 back to its state prior to flood control event. I
24 would feel better with that, say maybe if it was to
25 replace the channel back to its original design

1 criteria, because the --

2 MR. SANDER: Again, if I didn't make that
3 clear, that is what I meant.

4 BOARD MEMBER BROWN: Okay.

5 MR. SANDER: Is that the repairs are to
6 replace what was originally designed and to maintain
7 the level of protection for the project as it was
8 originally constructed.

9 BOARD MEMBER BROWN: That gives a lot more
10 comfort level than to the condition of the channel
11 prior to the event. I mean, you could have a 1947
12 Hudson in the channel, as an example, before the event
13 and/or some large trees or something growing in there.

14 Okay. We need some help and an answer on the
15 planting of trees on the waterside, that is the main
16 thing. We're not comfortable with planting willows or
17 any other trees on the waterside, and we need something
18 that helps our comfort level there.

19 MR. SANDER: And, you know, I'm not sure --
20 you know, I've explained that we are following the
21 design standards that the Corps of Engineers has for
22 vegetation associated with levees. The species of
23 willows that we are using are specifically selected
24 because they do not grow large.

25 BOARD MEMBER BROWN: Do you have the name of

1 that species?

2 MR. SANDER: Yes, the Sandbar Willow is the
3 *Salix exigua*; and Arroyo Willow, which is *Salix*
4 *lasiolepis*.

5 BOARD MEMBER BROWN: Okay. Perhaps staff
6 could do a little research on those willows for us and
7 give us a report back on them and what their read is?

8 PRESIDENT CARTER: Sandbar Willow and the
9 Arroyo Willow. Are those native?

10 MR. SANDER: Yes.

11 PRESIDENT CARTER: To California? To
12 Sacramento and San Joaquin Valley?

13 MR. SANDER: Yes.

14 SECRETARY DOHERTY: That's not all that grows
15 in our rivers at the present time. There is other
16 types of willows, right?

17 MR. SANDER: Many other types of willows.
18 Willows are one of the largest kind of families of
19 trees out there.

20 PRESIDENT CARTER: Okay. Mr. Sander, I
21 appreciate you coming and trying to clarify this. I'm
22 still a little bit confused because -- and primarily
23 because relying on the discussions that The Resource
24 Agencies, the Department of Water Resources, the Flood
25 Protection Board, and the Corps have had with regard to

1 the enforcement or application of the existing Corps
2 standard or the more strict enforcement of that
3 existing Corps standard, the framework that's been
4 developed is kind of a compromise -- almost a
5 compromise for California.

6 It contemplates basically reduction of
7 vegetation on the slopes of the levee through either in
8 levee rehabilitation projects there won't be vegetation
9 or, in the case of old growth or larger trees that are
10 quote/unquote grandfathered in, they will disappear
11 through attrition and not be replaced.

12 And so if you take that, you know, 50 years
13 down the road, essentially as those trees die off and
14 as that vegetation disappears and is not replaced, the
15 levees will be free of large trees.

16 And that -- we had that discussion at the last
17 Roundtable meeting, and specifically Les Harder brought
18 that issue up, is that -- and raised some concerns with
19 regard to that.

20 So as a result of that, I'm still concerned
21 that there's an inconsistency in what I'm hearing
22 articulated from the Corps with regard to the
23 enforcement of the stricter -- or strict enforcement of
24 the existing standards and what is in the O&M manual
25 and the guidelines for PL 84-99 Levee Rehabilitation.

1 Are you --

2 MR. SANDER: Again, I do not see the conflict,
3 but I understand why it exists.

4 On the one hand, there is a huge concern about
5 these large trees that are growing within the levee
6 prism, which are not good, which we would like to have
7 removed.

8 The kind of tree plantings that we're talking
9 about for PL 84-99 are specifically to help prevent
10 erosion of newly constructed rehab work. And the
11 determination has been made over many years that that
12 is what works well in the Central Valley.

13 You cannot grow sod here in the Central
14 Valley. It's too dry. There is not enough rainfall
15 throughout the year to support it. And these types of
16 species of willow will help prevent erosion and can
17 grow in California's environment.

18 In talking with Jay over the last couple of
19 weeks with respect to your questions at your last Board
20 meeting, what I had proposed to him is that the Corps
21 of Engineers come in and make a presentation to the
22 Board once the framework, the Roundtable framework, is
23 adopted.

24 Because there are going to be provisions
25 within that framework that allow for certain types of

1 vegetation to be treated differently in the short-term
2 for the Central Valley of California, and that is going
3 to be in direct conflict with what the Corps' national
4 standard is for vegetation on levees.

5 And what we would need to do for the Board is
6 show them exactly, through some drawings, what
7 currently exists out there, how it's going to be
8 maintained under the interim standard that we have
9 agreed to with the State, and then what we would expect
10 the end-state to be as the State of California
11 continues to improve its flood control system and come
12 into compliance with the Corps' national standards.

13 In conjunction with that, organizations like
14 SAFCA are initiating a research project as well as the
15 Corps of Engineers at our research center in Vicksburg,
16 to look at vegetation on levees and see what kind of
17 impacts various species of trees and bushes and shrubs
18 have on the levee prism. As a result of that research,
19 there may be changes to the Corps of Engineers' national
20 standards which could then be applied here in
21 California.

22 So if that is acceptable to the Board, we
23 would work to do that either in the August meeting or
24 in the September meeting.

25 PRESIDENT CARTER: A presentation like that,

1 I'm sure, would clear up a lot of the muddy water. And
2 graphics such as you propose would be in particular
3 very, very useful and helpful.

4 BOARD MEMBER BROWN: The August meeting would
5 be preferred, Mr. Chairman, since I may personally be
6 out of town for the September meeting.

7 PRESIDENT CARTER: Okay.

8 SECRETARY DOHERTY: May I ask a question here?

9 PRESIDENT CARTER: Absolutely.

10 SECRETARY DOHERTY: I saw a levee district the
11 other day that on the riverside there was a flat shelf.
12 This flat shelf had all been disced so that when the
13 water comes up all that soil is going to go right down
14 into the river.

15 Now, is that what we're after? Could -- with
16 all of the projects we've done of placing rock and
17 plantings and sprinkler systems, could we put sprinkler
18 systems on our levees and grow sod?

19 MR. SANDER: Actually, the standards are
20 fairly prohibitive when it comes to sprinkler systems
21 because you have the problem of a pipe system that's
22 under pressure. If it breaks, then you start having
23 erosion in the levee that could be uncontrolled for a
24 period of time before anybody found that.

25 So sprinkler systems are not something that we

1 would be looking to incorporate into the flood control
2 system.

3 SECRETARY DOHERTY: But we have got sprinkling
4 systems right now operating for what, A period of three
5 years or something?

6 MR. SANDER: No, we don't. We should not have
7 sprinkler systems on the levees now.

8 SECRETARY DOHERTY: But I've seen two
9 different planting areas that have sprinkler systems.

10 MR. SANDER: You're --

11 SECRETARY DOHERTY: Projects done by
12 restoration.

13 MR. SANDER: Okay, you're talking about drip
14 irrigation.

15 PRESIDENT CARTER: No. These are sprinklers.

16 SECRETARY DOHERTY: Sprinklers.

17 PRESIDENT CARTER: There is one across the
18 river, right across from my house.

19 MR. SANDER: And that was installed by the
20 Corps?

21 PRESIDENT CARTER: That was actually a DWR
22 project in cooperation with the Corps.

23 MR. SANDER: Is it on the actual levee prism,
24 or is it on a planting berm?

25 PRESIDENT CARTER: No, it is on the actual

1 levee prism. It was a critical erosion site. River
2 Mile 158, something like that.

3 SECRETARY DOHERTY: 185? 183?

4 PRESIDENT CARTER: No, that's further north.

5 But also I saw them down here south of the
6 Pocket Area where there was a site on one side of the
7 river that was a DWR site; on the other side of the
8 river it was a Corps site. Both of them had sprinkler
9 systems, and they were actual sprinklers.

10 I was on the water with General Van Antwerp at
11 the time, and we observed them both operating at the
12 same time.

13 MR. SANDER: Okay. I will have to go back and
14 talk to our folks and find out exactly what those
15 systems are. But I know we are not -- we don't
16 normally want to incorporate sprinkler systems into the
17 levee prism.

18 PRESIDENT CARTER: Well, these were temporary
19 systems. It's just a question of how long. Because
20 they were drawing water with little gas-operated pumps
21 from the river to pressure the system.

22 MR. SANDER: Okay.

23 PRESIDENT CARTER: So they didn't -- and they
24 were above-ground pipes, PVC pipes.

25 MR. SANDER: Right.

1 PRESIDENT CARTER: They with above-ground PVC
2 pipes with sprinklers attached to them, and the source
3 of water was the river.

4 SECRETARY DOHERTY: South of river is another
5 spot on the east, on the west side of the river.

6 MR. SANDER: Again, when you have these
7 mitigation plantings for vegetation, there is a
8 maintenance period that's required by the contractor to
9 get those actually established, and it's generally for
10 a three-year period. And they have to be watered in
11 California because it doesn't rain.

12 PRESIDENT CARTER: Okay.

13 BOARD MEMBER BROWN: A follow-up question on
14 your statement that the willows are planted for soil
15 stabilization to help prevent erosion. There's other
16 plants that you plant alongside, of course, these
17 willows that do the same thing, right?

18 MR. SANDER: I believe there are a variety of
19 plantings that are available other than just the
20 willows. Some other small shrubs.

21 BOARD MEMBER BROWN: Well, it begs the
22 question then, if we have other plantings that will do
23 the same thing without the concern of the willows
24 growing out of hand, or with the root structure at some
25 time in the future causing potential damage, the

1 stabilization issue then would be mitigated by just
2 planting more of the same then, wouldn't it? Instead
3 of planting willows along with it?

4 MR. SANDER: I believe that willows are one of
5 the best -- these types of willows that we're talking
6 about are one of the easiest plants to establish.

7 BOARD MEMBER BROWN: So that would be why you
8 would plant it?

9 MR. SANDER: Yes.

10 BOARD MEMBER BROWN: Because they are easier?

11 MR. SANDER: They are easier to establish, and
12 they grow rather quickly.

13 BOARD MEMBER BROWN: Okay.

14 PRESIDENT CARTER: Any more questions for
15 Mr. Sander?

16 Again, we thank you very much for coming, and
17 I apologize for the delay, and I appreciate your
18 patience, and we'll continue to work with you on this
19 and try and understand the issue better.

20 MR. SANDER: All right. And my question is
21 for the August meeting, I know that the Roundtable is
22 not going to be meeting again until, I believe, the
23 22nd --

24 EXECUTIVE OFFICER PUNIA: 22nd.

25 MR. SANDER: -- of August. And I think your

1 next meeting is scheduled for the --

2 EXECUTIVE OFFICER PUNIA: 15th.

3 BOARD MEMBER BROWN: How about the October
4 meeting?

5 PRESIDENT CARTER: Do you think it's possible
6 that we would be able to discuss the framework on
7 August 15th even though the framework has not
8 officially been bought off on by the Roundtable?

9 MR. SANDER: I believe so, yes.

10 PRESIDENT CARTER: We could check with DWR and
11 who -- is it Jeremy that's basically the point man on
12 developing and finalizing -- getting the comments from
13 everyone and finalizing the --

14 EXECUTIVE OFFICER PUNIA: Gary Bardini. Gary
15 and Eric.

16 PRESIDENT CARTER: Okay. We can check with
17 Gary and see if there are any more comments coming in;
18 and if he feels that it's fairly stable, the document,
19 the framework is fairly stable at that point, maybe it
20 would be worthwhile trying to do it August as kind of a
21 precursor. Because it will have to come to the Board
22 at a future meeting, and maybe that would kind of
23 grease the skids for approval.

24 MR. SANDER: Kind of set the stage for when it
25 does come to the Board.

1 PRESIDENT CARTER: So let's tentatively think
2 about August 15th, and if that appears that it's not --
3 doesn't make sense to make that happen, then we'll do
4 it at a later meeting.

5 MR. SANDER: Okay, very good. And I'll
6 continue to coordinate with Mr. Punia.

7 PRESIDENT CARTER: Thank you very, very much.

8 MR. SANDER: Okay, thank you.

9 BOARD MEMBER BROWN: Thank you for your
10 answers.

11 PRESIDENT CARTER: Okay. Anything else on
12 Item 16? Any additional items? All right. We've
13 already done Item 17.

14 Future agenda, Item 18?

15 SECRETARY DOHERTY: I have one more thing.

16 PRESIDENT CARTER: One more thing. All right.

17 SECRETARY DOHERTY: I have Board --

18 PRESIDENT CARTER: Board comments. Item 16.

19 SECRETARY DOHERTY: Yes. I have a letter my
20 packet. I don't know whether the rest of you received
21 it or not. And if you'll remember, I spoke you to
22 about this lady up on -- near the Sutter Bypass. And I
23 did talk to Mr. Punia and the two agents. If I could
24 read this to you, I'll read quickly:

25 Dear Lady Bug --

1 It's directed to the Reclamation Board.

2 I feel I was misled into signing a
3 contract for a temporary entry permit
4 for Farm Road Site on the Wadsworth
5 Canal PL 84-99 as the plans gave no
6 indication of the massive amount of
7 construction involved. Here are many of
8 the ways that this construction has
9 affected the running of my ranch.

10 I lost my pasture rotation in a year
11 that produced poor grazing, and I needed
12 to feed hay since I couldn't let the
13 cattle graze the area. Hay has been
14 hard to come by and quite expensive this
15 year.

16 My access road was used for hauling,
17 which I don't believe was covered in the
18 contract. In fact, there have been so
19 many trucks hauling that it has been
20 virtually impossible to use the access
21 road. In fact, on June 23rd, 2008, a
22 client of my vet practice was almost
23 denied access. I would consider that
24 harassment. With all the large
25 equipment that has been traveling the

1 roads, gate posts have been broken off.
2 Mosquito/vector control people have been
3 very challenged to gain access to the
4 ranch headquarters and the pasture in
5 the bypass. They are doing mosquito
6 control and West Nile studies, very
7 important to our health well being. One
8 of the employees has been rudely treated
9 when trying to come in on the main
10 access road. Fortunately this year she
11 has been able to leave to the east.
12 Last year it would have been impossible
13 due to flooding on that road
14 I cannot access my corrals from the
15 normal straight forward approach.
16 Unfortunately this year there has been a
17 lot of the calves that have needed
18 doctoring for respiratory illness to
19 date the cattle from the northern
20 pastures have needed to be brought in
21 for treatment three times. That meant
22 moving another herd in order to bring
23 them around through that pasture to the
24 corrals. Twice the pasture that was
25 crossed was in the process of being

1 irrigated or just irrigated. This is
2 bad because what areas the cattle don't
3 punch through they compact the soil so
4 the water doesn't penetrate well. This
5 is more time-consuming to say the least
6 and when people are being paid it adds
7 up costing more. The horse riders that
8 come to work the cattle have needed to
9 park their trailers north off of
10 Franklin Road. That is an extra mile of
11 riding. All this additional time is
12 approaching \$400.

13 My biggest concern is my sod and grass
14 has been destroyed. We have been
15 working 60 years to repair the damage
16 done the last time work was done on the
17 levee. Now it is completely destroyed
18 and I don't believe I will live long
19 enough to see it restored. It takes
20 many years for a matt of sod to
21 establish itself after reseeding. I
22 know that they will reseed the area, but
23 will they also irrigate it for the
24 remainder of the year?

25 Then there is the fact that there is

1 constant noise around the clock
2 I feel that \$2000 a month for the time
3 this construction is going on would not
4 be enough. \$3000 would be more
5 equitable. That \$2,000 a month should
6 continue during the recovery period.
7 I estimate that it will take at least
8 two years for the sod the form so it
9 will hold cattle without punching
10 through in the winter and I should be
11 compensated during that time at \$1000
12 per month. During this time, I will
13 need to find other pasture for the bulls
14 that would be there. Something that
15 would help would be a fence around the
16 newly seeded area so the rest of the
17 pasture could be used
18 Sincerely, Evelyn Loretta Dean, DVM.
19 I don't know whether you want to put this on
20 for discussion at our next meeting or -- but I just
21 wanted you to know that I have gotten this letter.
22 EXECUTIVE OFFICER PUNIA: I'll give the quick
23 update, the action we have taken so far.
24 SECRETARY DOHERTY: Okay.
25 EXECUTIVE OFFICER PUNIA: We have forwarded

1 the letter to the DWR real estate folks because they
2 negotiated the entry permit with Dr. Loretta Dean, and
3 they are working on a response.

4 I think I invited them today to be here so
5 that they can address this concern, but I gave them the
6 estimated time as 3:30, so they are not here.

7 But based upon their e-mail, I think they gave
8 me four points. The real estate branch is currently
9 drafting a response to address each point mentioned in
10 Ms. Dean's letter. The real estate staff has been
11 advised by DWR legal counsel that compensation can only
12 be made for reasonable expenses and incurred from
13 damages. Anticipated future damage cannot be
14 compensated.

15 The response to Ms. Dean will request that for
16 compensation purposes Ms. Dean must provide actual
17 damage receipts of expenses incurred as a result of the
18 of the project.

19 Compensation will be made for the areas of Ms.
20 Dean's property secured by way of temporary entry
21 permit and depicted on the construction drawings that
22 the real estate branch used to certify the project real
23 estate.

24 Compensation will be based upon appraised
25 lease rate for the period Ms. Dean's property was used

1 for stating purposes during the construction period.

2 The next point is a survey of existing rights
3 has been requested to stake rights owned in the name of
4 the Sacramento-San Joaquin Drainage District for which
5 the real estate rights were certified under. An
6 official response will be sent to DWR legal office and
7 Jay Punia for review provided through mailing.

8 So I just want to let you know that they are
9 working on it, and they will be respond. They were
10 planning to be here, but I think we are a little bit
11 early of our schedule and we cannot hear from them
12 directly.

13 SECRETARY DOHERTY: I just felt that we needed
14 to know that I had gotten this letter. And thank you
15 that you are responding to it. I think that's
16 important. They dug a slurry wall and then the levee
17 collapsed, and so they couldn't ingress and egress. It
18 was stopped for a while too.

19 EXECUTIVE OFFICER PUNIA: They are also
20 telling me that the contractor has a separate agreement
21 with Dr. Dean, also, that that's a separate outside the
22 DWR agreement.

23 PRESIDENT CARTER: The letter was addressed to
24 you, Lady Bug, and the Board?

25 SECRETARY DOHERTY: It was addressed the me as

1 the Board, the Reclamation Board.

2 PRESIDENT CARTER: Okay. I guess if you want
3 that to be shared with the rest of the Board, you need
4 to let Jay know or the staff know that, to copy all the
5 other Board Members, and then they can include it in
6 the Board packet.

7 I did not see that, was not aware of it. You
8 had brought it up last month.

9 SECRETARY DOHERTY: I didn't have it. This --
10 it was dated to me July 10th and the Board -- this --
11 her date. It was received July 2nd. She's got a date
12 of June 30th on it, and the Board received it on
13 July 2nd and then forwarded it to me.

14 PRESIDENT CARTER: I think the -- I'm glad
15 that DWR real estate is responding. It's going to be
16 in the State's best interest and their best interest
17 and our best interest if they try and resolve this
18 amicably.

19 If they negotiate contracts like this and they
20 are abused, they are not going to get local support for
21 these things, and people are not going to be inclined
22 to enter into agreements to allow them to do the work,
23 and so they are going to have to go through a more
24 extensive and more expensive process to get access.

25 And hearing things like this gives me pause

1 when, in our MOA that we discussed earlier today, we
2 are delegating the authority to DWR to negotiate all
3 these real estate items.

4 And maybe we -- you know, it gives you second
5 thoughts as to whether or not that makes sense, if they
6 are going to be abusing that kind of -- not that I'm
7 saying they have, but they need to resolve it quickly
8 and amicably.

9 EXECUTIVE OFFICER PUNIA: I think they are
10 willing to do everything in their power within the law.
11 So I think they are expressing that they will try their
12 best to see if Ms. Dean can be compensated.

13 SECRETARY DOHERTY: Thank you. I appreciate
14 that. I'm sure she will.

15 PRESIDENT CARTER: Mr. Brown.

16 BOARD MEMBER BROWN: If you are through with
17 that, I have a few items here to report on.

18 PRESIDENT CARTER: Yes.

19 BOARD MEMBER BROWN: On July 9th, I met with
20 Neil Shield, who is a civil engineering consultant. He
21 had questions on levee pipeline crossings in general,
22 and Jay sent out some information to that, I think in
23 response to it. In any case, I forwarded that
24 information to Mr. Shield, and he has that in hand now.

25 And again, I met with Jerry Johns July 10th on

1 transferring pre-1914 water. That's not an issue that
2 should come before this Board, but I wanted you to know
3 it.

4 SECRETARY DOHERTY: Water transfer?

5 BOARD MEMBER BROWN: Yes.

6 Then yesterday I talked with Congressman
7 Dennis Cardoza's office at the suggestion of Rose Marie
8 Burrows at our last meeting to present to him a
9 briefing on some of the water issues within the state.
10 That meeting has not been set up. If it comes to pass,
11 I'll let you know.

12 Then I've been asked to speak to the Auburn
13 Dam Council August 4th on Auburn Dam. I'm kind of
14 anxious to hear what I'm going to say myself Mr.
15 Chairman.

16 PRESIDENT CARTER: Okay. Thank you. Anything
17 else under Item 16? Okay.

18 Item 18, Future Agenda. Did we -- I don't
19 think we had a draft. Do we have a draft?

20 EXECUTIVE OFFICER PUNIA: Yes. Lorraine, have
21 we distributed the copies of the draft agenda?

22 STAFF ANALYST PENDLEBURY: Yes, they should be
23 in the Board packet. We put them in yesterday.

24 EXECUTIVE OFFICER PUNIA: There should be an
25 August 15th draft agenda in your packet. The packet

1 that was given today.

2 PRESIDENT CARTER: It's in the portfolio, is
3 where I found mine. In your folder there.

4 BOARD MEMBER BROWN: Yeah, here the it is.

5 PRESIDENT CARTER: All right. So we have
6 draft August 15th, front page is the usual. Report
7 from DWR. Report from Three Rivers. We have Consent
8 Calendar 7A through 7P. Do these include the ones that
9 were tabled today? If not, they ought to.

10 EXECUTIVE OFFICER PUNIA: Yeah. We will.

11 PRESIDENT CARTER: If they're ready. Okay.
12 We've have a hearing regarding Application No. 18313,
13 West Sacramento, I Street Bridge, South Levee Project.
14 Then Natomas Levee Improvement Program under requested
15 actions for SAFCA requesting a letter to the US Army
16 Corps of Engineers to initiate coordination with SAFCA
17 and Environment Impact Statement, Environmental Impact
18 Report, under NEPA and CEQA.

19 American River Watershed Common Features
20 Project. Mayhew Levee and Mayhew Drain Closure
21 Structure Projects. I thought we did that one already.
22 Approve addendum, okay, to the Mayhew Levee
23 Environmental Impact report. How many addendums do we
24 have to that Environmental Impact report?

25 EXECUTIVE OFFICER PUNIA: Let's see, this may

1 be a -- Gary, could you tell me. Is this Jacobs Lane
2 or is this the Mayhew Drain, left over from the
3 previous agenda?

4 CHIEF ENGINEER HESTER: It was my
5 understanding that we were going -- I think -- I
6 believe it should be Jacobs Lane.

7 EXECUTIVE OFFICER PUNIA: Jacobs Lane.

8 CHIEF ENGINEER HESTER: So it is a different
9 project, and the issue was that they recirculated their
10 environmental assessment initial study for comment, and
11 so they need Board review and approval.

12 EXECUTIVE OFFICER PUNIA: I think Jacobs Lane
13 is listed on the next page, so I think this is left
14 over from the previous, so we will --

15 DEPUTY ATTORNEY GENERAL CAHILL: This may be
16 the one about the noise mitigation measure.

17 EXECUTIVE OFFICER PUNIA: That may be correct.

18 PRESIDENT CARTER: So this is a real item.

19 EXECUTIVE OFFICER PUNIA: Another issue came
20 up that due to the noise level that they have to work
21 during the weekends. Originally it was not discussed
22 in the EIR, so that's why it's coming back.

23 PRESIDENT CARTER: All right. Encroachment
24 Enforcement on Bear Creek and Lower Calaveras River,
25 San Joaquin County which the Board Executive Committee

1 and the staff is going to review our process there
2 prior to Board meeting.

3 And Mr. Hester, you say that the letters, you
4 expected the letters to go out notifying the property
5 owners of encroachment problems, will go out prior to
6 August 15th.

7 CHIEF ENGINEER HESTER: Yes, that's correct.
8 The action plan that we submitted on behalf of San
9 Joaquin County for the extension of the maintenance
10 deficiency specified that the letters would go out on
11 August 1st.

12 PRESIDENT CARTER: August 1st. Okay. We have
13 the Sutter County Feasibility Study and the Lower or
14 the American River Watershed Common Features and this
15 is the Jacobs Lane.

16 EXECUTIVE OFFICER PUNIA: Yes.

17 PRESIDENT CARTER: Okay. Informational
18 briefings, FEMA, San Joaquin. So this -- and this
19 directly relates potentially to, or has implications
20 for, the Calaveras River and Bear Creek with regard to
21 FEMA. Kathy Schaefer is the representative on the
22 California Levee Roundtable from FEMA.

23 EXECUTIVE OFFICER PUNIA: Then we will add
24 tentatively what we discussed with Jim Sander, that a
25 briefing from the US Army Corps of Engineers about the

1 vegetation standards.

2 PRESIDENT CARTER: Okay. Let's see. And then
3 the rest is -- let's see, we have got a closed session
4 at the end of the day regarding litigation.

5 EXECUTIVE OFFICER PUNIA: Yes.

6 PRESIDENT CARTER: Okay. Then the proposal
7 was to have a half-day tour of Three Rivers Levee
8 Improvement on the Feather River setback.

9 EXECUTIVE OFFICER PUNIA: Yes, on the
10 afternoon of the 14th.

11 PRESIDENT CARTER: On the afternoon of the day
12 before the Board meeting, that would be Thursday
13 afternoon. Okay. Anything else? Okay.

14 Mr. Shapiro, did you want to add something or
15 suggest something for the agenda?

16 MR. SHAPIRO: Thank you, President Carter.
17 Scott Shapiro, Co-Program Manager, West Sacramento Area
18 Flood Control Agency Project.

19 Actually, I wanted to offer thanks and ask a
20 personal favor. I've been here in previous months and
21 requested that the item currently listed as No. 8 on
22 the proposed agenda be included, and I am grateful to
23 see it, and I am thankful that the Board will take the
24 time to consider it.

25 The personal favor is, and I have relayed this

1 to Jay who agreed he would speak with the Board about
2 this in setting the final agenda, but I thought instead
3 of asking him to carry my water I'd offer the request
4 myself.

5 Unfortunately, I agreed to cover the American
6 River Flood Control District Board meeting that day for
7 my partner Dave Aladjem who is on vacation. So my
8 request is that this item be set at a time when I might
9 be able to attend. Originally I thought it would be
10 this month, so it wasn't going to be a conflict.

11 The American River Board meeting starts at
12 11:00 and typically ends by 1:00, so if possible, if
13 this item could be held until late afternoon, I would
14 appreciate it.

15 PRESIDENT CARTER: Okay.

16 MR. SHAPIRO: Thank you.

17 PRESIDENT CARTER: I'm sure we can accommodate
18 that request.

19 MR. SHAPIRO: Thank you.

20 EXECUTIVE OFFICER PUNIA: We will schedule
21 that item after the DWR report before Paul Bruno's
22 briefing.

23 PRESIDENT CARTER: Mr. Shapiro, what would be
24 the earliest time that would be convenient for you?

25 MR. SHAPIRO: 6 a.m.

1 PRESIDENT CARTER: And what would be the
2 earliest time in the afternoon that would be convenient
3 for you?

4 MR. SHAPIRO: I'm confident I could be down
5 here by 1:30. And if as long as the item is finished
6 by 10:30, I can get over to that Board meeting. 10:30
7 in the morning.

8 PRESIDENT CARTER: Up to 10:30 and after 1:30.

9 MR. SHAPIRO: Yes.

10 PRESIDENT CARTER: 1:30 or after?

11 MR. SHAPIRO: Thank you.

12 PRESIDENT CARTER: Thank you.

13 All right. Anything else? Ms. Suarez.

14 BOARD MEMBER SUAREZ: I have a request, but
15 not that necessarily deals with agenda, although it
16 does go in an agenda item. Is this the appropriate
17 time?

18 PRESIDENT CARTER: Yes. Go ahead and make
19 your request.

20 BOARD MEMBER SUAREZ: I am looking this Bear
21 Creek Encroachment Hearing Officer issue, and how many
22 letters are we talking about?

23 CHIEF ENGINEER HESTER: We have eight
24 properties on Bear Creek and approximately 40
25 properties on the Lower Calaveras River, so we're

1 talking about 50 letters probably. And of those 50,
2 you know, not all of those will have letters that are
3 requesting an encroachment to come out. So that's sort
4 of the upper end estimate.

5 SECRETARY DOHERTY: There's that many with
6 encroachments?

7 CHIEF ENGINEER HESTER: Yes, that many
8 properties involved.

9 BOARD MEMBER SUAREZ: Does that include the
10 group of people that did not have a permit to start
11 with, or is that a different group of people?

12 CHIEF ENGINEER HESTER: It includes property
13 owners that have permits, some of which are maintaining
14 the encroachments according to permits, some of which
15 may have vegetation issues that need to be trimmed up.

16 But it also includes some properties with
17 encroachments that have no permits. There are also
18 some cases where the Board issued a permit without the
19 Corps approval. There's a few of those.

20 BOARD MEMBER SUAREZ: And these are all
21 private landowners?

22 CHIEF ENGINEER HESTER: Yes. I believe there
23 was one parcel that might have been a public parcel,
24 but I don't think that's an issue. For the most part
25 it is residents.

1 BOARD MEMBER SUAREZ: Mr. President, I know if
2 got a letter like that from a Board that I probably
3 don't remember even knowing about, I'd check when the
4 first -- next time I could see these people
5 face-to-face and show up, meaning maybe the 15th of
6 August will be the first time we might be seeing some
7 of these people. They might not wait for a hearing
8 time.

9 So not that we can do much about that, except
10 plan for the fact that we might have more public
11 comments than we usually do of perhaps cranky people.

12 I would like to ask, if possible, for us to be
13 notified and maybe sent a sample copy of a letter, once
14 that does happen, just in case folks also try to reach
15 us directly, which would be something that I would
16 consider doing if I were in their shoes. I'd just like
17 to know when these letters went out, so I won't answer
18 my phone. I'm kidding.

19 SECRETARY DOHERTY: Are these big
20 encroachments? Not of houses or anything.

21 CHIEF ENGINEER HESTER: On Bear Creek, there
22 are some structures that are within the flood easement.
23 Now, whether they can be dealt with in another way
24 rather than actually coming out, we're still waiting
25 for the Corps determination on some of those.

1 On the Calaveras where the bulk of the letters
2 would go, they're primarily vegetation and fences. And
3 just -- you should be aware that we did have meetings
4 with the Bear property owners quite some time ago, not
5 only the property owners with encroachments, but a
6 separate public meeting where people that were
7 protected by the levee had an opportunity to come and
8 understand the issue.

9 We do intend to have a similar meeting with
10 the property owners on the Calaveras River. We're
11 still sorting through the logistics of when we can
12 actually have that meeting, whether it happens
13 immediately prior to letters going out or shortly there
14 after, but that -- my expectation is that meeting would
15 be held before our August 15th Board meeting; and
16 actually my preference is to do it sooner rather than
17 later.

18 The issue becomes: Can we have the discussion
19 we need to have with the property owners that are
20 affected by the letters without a larger group asking
21 questions about the implications of the maintenance
22 deficiency and flood insurance?

23 The reason why the two meetings were held
24 separately on the Bear Creek were that really the
25 information that was provided to them was different.

1 In one case, we were trying to target, here's where
2 we're -- here's what we're trying to resolve. Here's
3 why we are trying to resolve it.

4 And for the larger public meeting, the issue
5 was: If we do not take care of this maintenance
6 deficiency, what are the implications in terms of flood
7 insurance.

8 BOARD MEMBER SUAREZ: But when you send those
9 letters out at the beginning of August, does it tell
10 them: Thou shalt take some action by a certain date?

11 CHIEF ENGINEER HESTER: Yes.

12 BOARD MEMBER SUAREZ: So it starts a legal
13 clock ticking at that point?

14 CHIEF ENGINEER HESTER: That's correct. And I
15 to have apologize to Ginny because I didn't have a
16 chance to even broach this subject with her.

17 But we -- when we identified what had to go
18 into the letters by August 1st, we adhered to Title 23
19 in terms of what needed to be in those letters as well
20 as what recourse the property owners would have.

21 And that's why we began -- that's why we put
22 this on the agenda, because we wanted to give you
23 advance notice that there would be likely a request for
24 a hearing. So we wanted to put that to the Board in
25 terms of a decision at the August meeting in terms of

1 how that hearing would be held.

2 BOARD MEMBER SUAREZ: But the letter offers
3 them a hearing?

4 CHIEF ENGINEER HESTER: Title 23 specifies
5 that they have 30 days to request a hearing.

6 BOARD MEMBER BROWN: Gary, in general, what do
7 the property owners wish for?

8 CHIEF ENGINEER HESTER: Well, I think -- we
9 had a fairly productive meeting on Bear Creek where the
10 property owners said if you can tell us what needs to
11 come out, we'll work with you and cooperate.

12 And certainly, my hope is that we can convince
13 folks on the Lower Calaveras to do same thing. I think
14 they're -- that they are well aware of the impact of
15 this maintenance deficiency on their neighbors in terms
16 of flood insurance.

17 I mean, it's a fairly significant action, So
18 there has already been a fair amount of media
19 attention.

20 The May 30th Board Subcommittee meeting and
21 tour down in Stockton, some of the property owners were
22 out, and Vice-President Hodgkins and Rosemary Burrows
23 were both there so they had an opportunity to hear what
24 the issue was.

25 And we were as clear as we could be about the

1 Board's role, the Corps' role, as well as the County's
2 role here. So we are trying to put message out that we
3 need a resolution to this, and I think -- I'm hopeful
4 that we will get substantial compliance.

5 BOARD MEMBER BROWN: What about the project
6 are they concerned about, the work?

7 CHIEF ENGINEER HESTER: I'm -- can you
8 elaborate a little bit on your question?

9 BOARD MEMBER BROWN: I was hoping you could.

10 CHIEF ENGINEER HESTER: Let me see if I
11 understand your question.

12 BOARD MEMBER BROWN: What do you anticipate
13 the landowners' concerns will be?

14 CHIEF ENGINEER HESTER: Well, I think for the
15 most part the concern will be if these -- in some
16 cases, these are long-standing encroachments. They
17 have been there many, many years. And the one of the
18 more complicated issues -- and this is something that
19 we have engaged Ginny on -- is going through the
20 easement language which is not same in each case.

21 So the issues will be: Are they being treated
22 the same as their neighbors? And in some cases they
23 will have different easement language, different
24 situations.

25 So to me the biggest issue is in some cases

1 you will have a fence that is not permitted that should
2 come out, and you may have an adjoining property owner
3 who actually has a fence, but it's within their
4 easement. It's called out in their easement.

5 So the issues become this, different rules
6 basically apply to different folks depending on the
7 timing of when their encroachment was in.

8 BOARD MEMBER BROWN: Thank you.

9 BOARD MEMBER SUAREZ: Again, Mr. President, if
10 we could -- I would appreciate being sent a quick
11 e-mail or something when those letters go out.

12 PRESIDENT CARTER: And a sample. Okay. Staff
13 can do that?

14 CHIEF ENGINEER HESTER: Yes, we can.

15 PRESIDENT CARTER: Okay. Very good. Anything
16 else on Future Agenda?

17 DEPUTY ATTORNEY GENERAL CAHILL: You want to
18 carry over the DWR MOA that we didn't act on this time?

19 PRESIDENT CARTER: Yes. We should put that on
20 the draft; and if it's ready, we'll consider it. Okay.

21 DEPUTY ATTORNEY GENERAL CAHILL: And I don't
22 know if you want to do the same with 408 one, depending
23 on how it shapes up.

24 PRESIDENT CARTER: Very good. Mr. Sander, did
25 you have something you want to add?

1 MR. SANDER: Yes, please. Mr. Sander, once
2 again.

3 I just wanted to address briefly the situation
4 at -- down in Stockton with Bear Creek and Calaveras.

5 It's very important that the Board looks to
6 take action as quickly as possible on the situation in
7 Stockton.

8 The projects in Stockton have requested an
9 extension beyond the March 30, 2008 date for one of --
10 both of these projects who are on the National
11 Maintenance Deficient List.

12 They were given a year, from 2007 to 2008, to
13 make these corrections so that they could remain
14 eligible for PL 84-99. There was very little action
15 that was taken up until March 30th of this year. They
16 have an extension request in.

17 That extension request was sent back to the
18 Corps of Engineers in Sacramento from our division
19 because they were concerned that no action had been
20 taken up to that point to make corrections.

21 It's very important that Stockton and the
22 Board and these landowners show that they are going to
23 take action to resolve these encroachments; otherwise,
24 the projects will be declared inactive for purposes of
25 PL 84-99.

1 In Stockton, that has even greater
2 ramifications at this point in time because these two
3 areas are currently being mapped for flood insurance
4 purposes.

5 So I would urge the Board to act as quickly as
6 possible to help those folks in Stockton resolve the
7 issues that they have with encroachments.

8 PRESIDENT CARTER: Okay. Thank you very much.

9 I think that message was received, and I think
10 the Corps has been actually very understanding and
11 patient with the State and with San Joaquin in that
12 regard. And it is incumbent upon us to demonstrate
13 some progress in this respect, so we are endeavoring to
14 do that.

15 MR. SANDER: Okay. Very good. Thank you.

16 PRESIDENT CARTER: Thank you. Anything else?
17 Future Agenda? Anything else for today?

18 All right. Ladies and gentlemen we are
19 adjourned. Thank you, very much for coming.

20 * * *

21 (Thereupon the CENTRAL VALLEY FLOOD
22 PROTECTION BOARD meeting adjourned at
23 3:22 p.m.)

24

25

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2 I, LINDA KAY RIGEL, a Certified Shorthand
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4 That I am a disinterested person herein; that
5 the foregoing CENTRAL VALLEY FLOOD PROTECTION BOARD
6 meeting was reported in shorthand by me, Linda Kay
7 Rigel, a Certified Shorthand Reporter of the State of
8 California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in
12 any way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand this July 31, 2008.

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